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KION SAWNEY  
ARTHUR TOM  
DAVID WASSERMAN

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD**

Tuesday, July 11, 2023  
at 6:00 p.m.  
25 Van Ness Avenue, Room 610  
San Francisco, CA 94102

The meeting will also be streamed online via Webex at

<https://bit.ly/3NwqnSM>

Public comment may be given by phone.

Public Comment Dial In Number: (415) 655-0001  
Webinar Number: 2664 647 3472 / Webinar Password: RENT (7368)

The Commission strongly encourages interested parties to submit their comments in writing, by 12:00 p.m. on July 7, 2023 to [rentboard@sfgov.org](mailto:rentboard@sfgov.org). The public comment call in instructions are available on the Rent Board's website at <https://sf.gov/public-body/rent-board-commission>.

Please visit the Rent Board's website for ongoing updates.

I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Mosbrucker read the Ramaytush Ohlone Land Acknowledgment.

III. Roll Call

Commissioners Present: Gruber; Haley; Klein; Mosbrucker;  
Qian; Sawney; Tom; Wasserman.

Commissioners Not Present: Crow; Hung.

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Staff Present:

Esquivel; Flores; Koomas; Van Spronsen; Varner.

IV. Remarks from the Public

A. Evan Goldman, the tenant at 1550 Bay Street, Unit #B415 (AT230036) told the Board that he opposed his landlord's capital improvement petition at the hearing and believes the substantive reasons for his objections were not fully addressed in the Administrative Law Judge's (ALJ) decision. He stated that he presented evidence that the work performed by the landlord was merely cosmetic in nature and should be considered "gold plating" and not permitted as a capital improvement passthrough to the tenants. He also stated that although many long-term tenants are lower income and paying below market rent, the new owner wants to turn the property into a "luxury" complex.

B. Curtis Dowling, the attorney for the landlord at 3459 Divisadero Street #304 (AT230040, AL230041) stated that none of the tenant's witnesses were present at the time the tenancy commenced or have any direct knowledge concerning the parties' initial parking agreement. He argued that none of the new evidence submitted by the tenant on appeal should have changed the original decision, and that the tenant's requested rent reduction is excessive and amounts to a request for civil damages that cannot be awarded by the Rent Board.

C. Andrew Gladstone, the tenant at 3459 Divisadero Street #304 (AT230040, AL230041) stated that the ALJ correctly determined that tandem parking was a housing service included in his initial rent, but erred in their determination of the value of that service. He told the Board that the landlord should be ordered to either provide him a replacement parking space or reinstate his right to tandem parking in his current space. He also stated that the landlord prohibited tandem parking in his space merely to harass him, and that the Administrative Law Judge gave the landlord a "tremendous award" by only reducing his rent by \$43.00 per month.

D. Ann Lieu, the landlord at 2471 46th Avenue #Basement Unit (AL230038), told the Board that the tenants' petition was without merit because the tenants received the benefit of solar power and agreed to pay for it.

E. Elizabeth, a friend of Ann Lieu, the landlord at 2471 46th Avenue #Basement Unit (AL230038), stated that she wanted to speak on behalf of her friend. She stated that the landlord and tenants agreed that since the solar panels would reduce their utility costs, the tenants would contribute to the solar payments. She stated that although this agreement was verbal, it was binding because the tenants paid the solar costs for some time. She also stated that while the tenants' lease requires them to pay 50% of the building utility costs, they only pay 30%.

F. Marc Carton, the attorney for the tenant at 721 Baker Street (AT230039) stated that although the Rent Board encourages parties to resolve petitions through mediation and provides stock agreements that include language implying that parties may seek enforcement of the agreement at the Rent Board, the agreement was not enforced in this case. He stated that the Administrative Law Judge erred in prohibiting the tenant from offering evidence to show that the landlord failed to comply with the terms of a prior settlement agreement, or to allow cross-examination of the landlord, and that the Commissioners should take everything into account when reviewing the tenant's appeal.

G. Thomas Tyler, a non-attorney representative for the landlord at 182 Naples Street #in-law (AL230042) stated that although the tenants' original rental agreement divided the utility costs 50/50, the other unit in the building is currently vacant, and therefore the landlord is requesting a "more equitable division" of the building's utility costs.

V. Approval of the Minutes

MSC: To approve the minutes of June 13, 2023.  
(Wasserman/Mosbrucker: 8-0)

VI. Consideration of Appeals

A. 1550 Bay Street #B415

AT230036

The tenant's appeal was filed 6 days late because the tenant states they were out of town when the decision was mailed.

Commissioner Wasserman recused himself from consideration of the appeal because he represents the landlord in other matters.

Commissioner Klein recused herself from consideration of the appeal because she represents the landlord in other matters.

MSC: To find good cause for the late filing of the appeal.  
(Mosbrucker/Qian: 5-0)

The landlord's petition seeking certification of capital improvement costs was partially granted for passthrough to fifty-five units. One tenant appealed, contending in part that the work was unnecessary and provides unequal benefit to the tenants, that the work was more costly than necessary, and that the work was performed for the purpose of marketing vacant units for higher rent.

MSC: To deny the appeal.  
(Tom/Gruber: 5-0)

B. 1600 Larkin Street #303

AT230037

The tenant's appeal was filed 9 days late because the tenant states they underwent extensive dental work that impaired their ability to file a timely appeal.

MSC: To find good cause for the late filing of the appeal.  
(Wasserman/Mosbrucker: 5-0)

The tenant's petition alleging decreased housing services was denied. The Administrative Law Judge determined that the tenant failed to establish a substantial loss of housing services. On appeal, the tenant claims that there were factual errors in the decision and that she provided substantial evidence in support of her claims.

MSC: To deny the appeal.  
(Wasserman/Gruber: 5-0)

C. 182 Naples Street #in-law

AL230042

The landlord's appeal was filed 1 day late because the landlord states that they cannot afford an attorney and misunderstood the deadline to file the appeal.

MSC: To find good cause for the late filing of the appeal.  
(Wasserman/Mosbrucker: 5-0)

The tenant's petition alleging an unlawful rent increase was granted in part and the landlord was found liable for rent and utility overpayments in the total amount of \$8,508.98. On appeal, the landlord argues that even if the former owner included utilities in the tenant's initial base rent, the new owner should be permitted to modify the terms of the tenant's lease and require the tenant to pay their own utility costs.

MSC: To deny the appeal.  
(Mosbrucker/Qian: 5-0)

D. 2471 46th Avenue #basement

AL230038

The tenants' petition alleging decreased housing services was granted in part and the landlord was found liable for decreased housing services and utility overpayments in the total amount of \$4,259.80. On appeal, the landlord claims in part that the decision is unfair, that mold was not a concern at the property, that she allowed the tenants' use of the laundry machines as a voluntary courtesy, and that the tenants agreed to pay the monthly solar panel charge.

MSC: To deny the appeal.  
(Mosbrucker/Qian: 5-0)

E. 721 Baker Street

AT230039

The tenant's petition alleging decreased housing services was granted in part and denied in part. The landlord was found liable for rent reductions in the amount of \$819.00 for a lack of heat for the period between November 28, 2018, and January 9, 2019, but the Administrative Law Judge found that the tenant's remaining claims were either barred by a prior mediation agreement or outside the jurisdiction of the Rent Board. The tenant appeals on various grounds, including that the tenant was denied due process; that the Administrative Law Judge failed to consider all the evidence, and that the prior mediation agreement is invalid and unenforceable.

MSC: To deny the appeal.  
(Wasserman/Gruber: 4-1; Mosbrucker dissenting)

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F. 3459 Divisadero Street #304

AT230040, AL230041

The tenant's petition alleging decreased housing services was initially denied. The Administrative Law Judge found that the tenant failed to meet his burden of proving that tandem use of his parking space was a housing service provided by the landlord at the inception of the tenancy. The tenant appealed the Administrative Law Judge's decision, and at its March 14, 2023 meeting, the Board voted to accept the appeal and remand the case for the Administrative Law Judge to consider the tenant's new evidence on appeal. In the remand decision, the Administrative Law Judge granted the tenant's petition, and the landlord was found liable in the amount of \$43.56 per month for the loss of tandem parking. On appeal of the remand decision, the tenant argues that the Administrative Law Judge undervalued his claim, and that the landlord should be compelled to either reinstate the service or provide him a replacement parking space. The landlord also appeals the remand decision, claiming that the initial decision was correct and that tenant's evidence on appeal was unconvincing.

Commissioner Wasserman recused himself from consideration of the appeal because he is a part owner of the landlord's property management company.

MSF: To deny the tenant's appeal and to accept the landlord's appeal to uphold the original decision.  
(Klein/Gruber: 2-3; Mosbrucker, Qian, Haley dissenting)

MSC: To deny both the landlord and the tenant's appeals.  
(Mosbrucker/Qian: 3-2; Gruber, Klein dissenting)

#### IV. Remarks from the Public (cont.)

A. Evan Goldman, the tenant at 1550 Bay Street, Unit #B415 (AT230036) asked the Board to reconsider their denial of his appeal. He read Section 7.15(c) of the Rent Board's Rules and Regulation regarding "luxury" item work and stated that the landlord did not provide any evidence in response to the tenants' objections. He stated that all of the work performed by the landlord was cosmetic, and that the landlord is trying to convert the property into a luxury building to get more rent.

B. Andrew Gladstone, the tenant at 3459 Divisadero Street #304 (AT230040, AL230041) stated that there were three things wrong with the comments made by his landlord's attorney and described his factual disagreements. He also said that management told him his parking spot was unique at the time he moved in and that his parking spot is the only one that isn't visually delineated.

C. Ann Lieu, the landlord at 2471 46th Avenue #Basement Unit (AL230038), told the Board that the law benefits tenants, not landlords. She stated that property owners pay a lot of taxes to the government, and asked the Board to explain what rights they have.

D. Elizabeth, a friend of Ann Lieu, the landlord at 2471 46th Avenue #Basement Unit (AL230038), stated that the landlord is asking the Board to reconsider her appeal. She stated that the landlord wants to work with the tenants and is willing to install a coin-operated washing machine to "find

a solution". She also reiterated that the tenants are paying less than their required share of the utilities.

E. Marc Carton, the attorney for the tenant at 721 Baker Street (AT230039) stated that the stock language in the Rent Board's settlement agreement is confusing and should be changed. He also stated that the Administrative Law Judge erroneously concluded that the tenant's settlement of a past decrease in housing services barred them from pursuing a claim that occurred after the settlement agreement.

## VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. An article from Center Square.

## VIII. Director's Report

Executive Director Varner told the Board that operations continue as normal at the Rent Board, and the department continues with hiring and recruitment, and its move project. She said that two new staff members were present and that new staff are expected to be at upcoming commission meetings. Director Varner said that in regards to outreach, Housing Inventory and Rent Board Fee Unit staff member Evelyn Benitez presented at the North of Panhandle Neighborhood Association on June 15, and that staff will present to owners and tenants at the Glen Park Neighborhood Association on July 27. Director Varner told the Board that about 13,600 2023 Notices of Delinquent Rent Board Fee were mailed to owners late last month where they have been given the opportunity to pay within 30 days, and that any further unpaid obligation will be referred later this summer to the City's Bureau of Delinquent Revenue. Director Varner said that in regards to legislation, Board of Supervisors File No. 230770 was introduced on June 27, 2023 and would amend the Rent Ordinance to provide that tenant-occupied units in buildings that will be receiving either low-income housing tax credits or tax-exempt multifamily revenue bonds shall remain subject to the Rent Ordinance, as long as any of the existing tenants continue to reside in the unit, or unless all the tenants in the unit agree otherwise in writing; and for any such units that may have previously become exempt from the Rent Ordinance since 2018, restoring rents to the levels allowed had the Rent Ordinance continuously applied. Director Varner introduced the Commissioners to two new staff members, Amanda Esquivel, as the department's newest legal assistant, and Craig Van Spronsen, who joined the Rent Board as an IT Operations Support Administrator, coming from the SF Unified School District. Director Varner provided an update on the department's racial equity work that had been requested by Commissioner Sawney. She credited staff members Jennifer Rakowski and Erin Katayama who carried on the department's work for two years as volunteers, in addition to their regular job duties. Director Varner said that she recently took part in a meeting with other department heads and racial equity leaders led by Dr. Sheryl Davis from the Human Rights Commission. She said that leaders are collaborating Citywide on the work, including strategies around recruitment, hiring, pathways to employment, retention, and culture. She said that the Office of Racial Equity and the Human Rights Commission is beginning a more focused, shorter-term initiative around Peer Learning Cohorts, where departments focus solely on one area, not the entire Racial Equity Action Plan, and that the

Rent Board has chosen to focus on a Pathways Cohort to share and reflect on practices departments have tried around equitable professional development, mentorship, pathways for employee mobility, etc. One highlight, Director Varner said, is that the racial equity team has expanded and stabilized with the addition of a departmental racial equity leader, and with that role as being a part of his actual job responsibilities, which is a huge step forward from a situation of volunteer-only work for the past three years. Other highlights, she said, have been implementing the department's Equitable Recruitment and Hiring Policy; improving language access and translation services during hearings; and spending considerable effort learning the atmosphere and feelings of staff about racial equity work, their personal experiences, and barriers to involvement in the work, via surveys, 1-on-1 conversations, and through observations. She said that the department now has a better understanding of staff perceptions around racial equity issues and work, which can inform practices going forward, an ongoing process due to the constant new hires.

#### IX. Old Business

##### A. Proposed Amendments to Rules and Regulations Section 10.10 Regarding Tenant Right To Organize Legislation

Commissioner Wasserman stated that he just learned the Board of Supervisors intends to introduce corrective legislation amending the Tenant Right to Organize law, which will impact the scope of their proposed amendments to the Rules and Regulations. In light of this information, the Commissioners agreed to defer their discussion regarding proposed amendments to Rules and Regulations Section 10.10. President Gruber asked that this item remain on the Board's monthly agenda as Old Business for the time being.

#### X. New Business

*There was no new business.*

#### XII. Calendar Items

August 15, 2023 – regular in-person meeting at 25 Van Ness Ave, Room 610, also streamed via Webex

##### A. Consideration of Appeals

5 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Qian.

#### XIII. Adjournment

President Gruber adjourned the meeting at 7:54 p.m.