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*PRESIDENT*

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ARTHUR TOM  
DAVID WASSERMAN

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

Tuesday, August 15, 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/3QtXe72>

Public comment may be given by phone.

Public Comment Dial In Number: (415) 655-0001  
Webinar Number: 2664 276 2899 / Webinar Password: RENT (7368)

The Commission strongly encourages interested parties to submit their comments in writing, by 12:00 p.m. on August 11, 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 Qian read the Ramaytush Ohlone Land Acknowledgment.

III. Roll Call

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

Commissioners Not Present: Sawney.

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Staff Present:

Flores; Garcia; Koomas; Texidor; Van Spronsen;  
Varner.

IV. Remarks from the Public

A. Timothy Kelly, the attorney for the tenant at 1130 Larkin Street #45 (AL230044), told the Board that the Administrative Law Judge's (ALJ) decision was correct, and that the landlord's appeal was a cynical attempt to "pad the pockets of the largest and most irresponsible landlord in San Francisco." He said that the landlord's agents were aware the tenant had a strong case, but pursued the increase anyways hoping to intimidate the tenant into vacating her long-term home. He asked the Commissioners to deny the appeal and to order the landlord to "address the devastating homelessness population problem" caused in part by its "shortsighted efforts to maximize its quarterly profits."

B. Andrew Catterall, the attorney for the landlord at 712 Shrader Street (AT230043), stated that at some point after the tenancy commenced, the tenants constructed an unapproved partition wall by covering up a pocket door between the living and dining rooms. He said that the landlord discovered the partition wall in 2021, recognized it as a code violation, and asked the tenants to remove it. He told the Board that the ALJ's decision correctly concluded that the private bedroom created by the partition wall was therefore not a housing service provided by the landlord at the inception of the tenancy, and that the tenants' appeal merely repeats the same arguments that were rejected by the ALJ.

C. D'Wana Stewart, the tenant at 530 Grove Street #5 (AL230045), asked the Board to uphold the ALJ's decision. She stated that the landlord was given repeated notice regarding the presence of ants and mice on the property, but the landlord either dismissed her requests or performed inadequate repairs. She also told the Board of a history of negative interactions with her neighbor, whose behaviors were the subject of her claim that the landlord failed to ensure her quiet enjoyment.

D. Jenna Liddell, the tenant at 61 Lupine Avenue (AT230046), told the Board that she presented clear proof that she experienced a substantial decrease in housing services, and that the ALJ erred in concluding otherwise. She stated in part that the landlord failed to make necessary repairs, interrupted her quiet enjoyment, and forced her out of the unit through "ridicule and groundless personal attacks." She further stated that it was imperative that the Board interview her teenage daughter, who can provide testimony documenting the harm caused by the landlord's actions and the significance of the habitability problems they experienced while living in the unit.

E. Catherine Magee, the landlord at 61 Lupine Avenue (AT230046), stated that she is a nurse practitioner, and that she manages the property the same way she manages patients – by addressing problems as soon as they arise. She stated that the tenant's appeal presents no new evidence, and that tenant's timeline of events is "drastically different" from reality. She stated that she believes the tenant is dishonest and that the tenant's appeal contradicts her earlier claims, which belies her credibility. She further stated that the evidence shows the landlords made reasonable efforts to complete the repairs, but that the tenant refused to allow access and ignored the landlord's communications.

V. Approval of the Minutes

MSC: To approve the minutes of July 11, 2023.  
(Wasserman/Qian: 7-0; Crow, Hung abstaining)

VI. Consideration of Appeals

A. 712 Shrader Street

AT230043

The tenants' petition alleging decreased housing services was granted in part and the landlord was found liable for rent reductions in the total amount of \$2,675.00. However, the Administrative Law Judge denied the tenants' claim alleging the landlord had reduced the number of bedrooms provided at the inception of the tenancy. On appeal, the tenants assert that the Administrative Law Judge misinterpreted the evidence concerning use of the third bedroom, and that the Decision contains an incorrect timeline of events.

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

B. 1130 Larkin Street #45

AL230044

The tenant's petition alleging an unlawful rent increase under the Costa-Hawkins Rental Housing Act was granted. The Administrative Law Judge found that a rent increase was not authorized because the evidence established that the landlord consented to the tenant petitioner's occupancy and intended to create a direct landlord/tenant relationship with her. The landlord appeals the decision and asserts in part that the petitioner was a subtenant of the original occupant and that the landlord never intended to create a tenancy with the tenant petitioner.

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

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

C. 530 Grove Street #5

AL230045

The landlord's appeal was filed 1 day late because the landlord's initial email submission to the Rent Board was not successfully transmitted.

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

The tenant's petition alleging decreased housing services was granted in part and the landlord was found liable for decreased housing services in the total amount of \$2,850.00. On appeal, the landlord claims in part that the Administrative Law Judge exceeded their authority and misapplied the law, and that the landlord's response to the tenant's complaints was reasonable and timely.

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

D. 61 Lupine Avenue

AT230046

The tenant's petition alleging decreased housing services was denied. The Administrative Law Judge found that the tenant failed to meet the burden of proving a substantial decrease in housing services. The tenant appeals in part on the basis that the landlord failed to make necessary repairs, interrupted her quiet enjoyment, and ignored her complaints. The tenant also asserts that her teenage daughter could provide testimony to corroborate her claims.

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

E. 400 Grafton Avenue

AL230048

The landlord's petition seeking a determination of whether the subject unit is exempt from the rent increase limitations of the Rent Ordinance was initially dismissed due to the landlord's non-appearance at the hearing. The landlord appealed the dismissal, and at its February 14, 2023 meeting, the Board voted to accept the appeal and remand the case to the Administrative Law Judge for a new hearing. In the remand decision, the Administrative Law Judge found that the property was subject to the rent increase limitations of the Rent Ordinance because the property was divided into two separate residential dwelling units. The landlord was also found liable for \$3,612.43 in rent overpayments resulting from null and void rent increases. On appeal of the remand decision, the landlord argues they should not be liable for rent overpayments prior to January 18, 2022, when they first acquired the property.

*Appeal No. AL230048 was withdrawn on August 14, 2023.*

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

A. D'Wana Stewart, the tenant at 530 Grove Street #5 (AL230045), thanked the Board for upholding the ALJ's decision. She stated that other building tenants had similar pest complaints and were also disturbed by the behaviors of her problem neighbor, who held himself out as the building manager. She stated that the problem neighbor engaged in stalking and harassment, hampered the resolution of repair work, and caused suffering for the entire building.

B. April Mitchell, an attorney for the landlord at 530 Grove Street #5 (AL230045), told the Board that the ALJ's findings were arbitrary, and that the Board's decision was wrong. She stated that although the tenant's neighbor may have caused some disturbances, he lived in the building for thirty years and there was no evidence that his behaviors caused the tenant petitioner a substantial decrease in services. She stated that the landlord did exactly what they were supposed to do under the circumstances, and that the decision conflicts with the law and the "purpose of the Board."

C. Matthew Rodrigues, an agent with Greentree Property Management, said that he appreciated the Board's discussion concerning the difficulties faced by landlords while trying to pursue a nuisance eviction, and that he would welcome further guidance regarding the appropriate response when one tenant causes disturbances for other building residents.

D. An unidentified individual told the Board that he also appreciated their discussion regarding 530 Grove Street #5 (AL230045), and that he witnessed the harassment experienced by tenant D'Wana Stewart because of her problem neighbor. He stated that tenant Stewart made repeated complaints that were ignored by the landlord's agents and thanked the Board for denying the landlord's appeal.

## VII. Communications

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

- A. Articles from Mission Local, SCOTUSblog, The Real Deal online, and KRON4 News.
- B. Monthly workload statistics for May 2023 and June 2023.

## VIII. Director's Report

Executive Director Varner told the Board that daily operations continue as usual at the Rent Board, and that the department continues with hiring and recruitment, and its move project. She said that a future new staff member was present at the meeting and that new staff are expected to be present at upcoming commission meetings.

Director Varner reported on outreach, telling the Board that Public Information Unit staff members Jennifer Rakowski and Max Garcia presented at the Glen Park Neighborhood Association on July 27. She said that on August 28, staff member Marissa Jimenez and Jessica Gallegos were scheduled to provide a training to Spanish-speaking housing counseling volunteers who are participating in a 12-week training course called Escuela Del Pueblo, sponsored by the Housing Rights Committee. She highlighted the exciting opportunity for Rent Board staff to share the Rent Board's Spanish-English glossary with the Spanish-speaking housing counseling volunteers to improve access and understanding. Director Varner told the Board staff would continue to focus on training housing counselors at local non-profits to understand the Rent Board's services. She also said that staff are preparing a training for the Mayor's Office of Housing and Community Development's Eviction Prevention Network on handling Reports of Alleged Wrongful Eviction. Finally, Director Varner told the Board that the department's tenant hardship forms are in the process of being updated, and staff are determining opportunities to train community organizations on the updated hardship forms.

With regard to the Fee, Director Varner told the Board that the 2023 Notice of Delinquent Rent Board Fee payment period has passed, with 13,600 notices sent out and about 5,235 delinquent accounts having been resolved. Director Varner acknowledged that this was a huge lift by the department's Inventory and Fee Unit as well as Public Information Unit counselors and collaborators at SF311 and the Treasurer and Tax Collector, and thanked all involved. She said that the department will refer up to 8,365 parcels to the Bureau of Delinquent Revenue for

unpaid 2023 Rent Board Fees, and that the next Housing Inventory and Rent Board Fee cycle will begin in October.

In regard to legislation, Director Varner told the Commissioners that the Board of Supervisors (BOS) File No. 230810, which would amend the Tenant Right To Organize legislation was introduced on July 11 and is currently at the Rules Committee. She said that the amendments would specify that an individual tenant may have a tenant association representative present during their meetings with the landlord and require landlords to remain in attendance at meetings of a tenant association for up to two hours, and that the amendments would also clarify what it means to confer in good faith and the types of matters that may be discussed with a tenant association, and clarify that a duly-formed tenant association remains in good standing unless and until either: 1) it fails to re-certify on the landlord's request, which can happen no more than once every three years; or 2) a new tenant association is formed to take its place. Director Varner also told the Commissioners that Board of Supervisors File No. 230770 was signed by the Mayor on July 28, 2023, and it amends 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.

Finally, Director Varner introduced Barbara Texidor, who would begin with the department on August 21 as the Deputy Director and Board Secretary. Director Varner said that Barbara was a San Francisco native who attended UC Santa Cruz and UC College of the Law, and is an attorney whose background is in housing, Social Security, health access, and immigration law, is a Spanish speaker, and has worked as a Section 8 property manager. She said that Barbara has most recently worked with Bay Area Legal Aid in their Alameda County and Legal Advice Line/Health Consumer Center offices as a supervisor and managing attorney, and comes ready to uphold the Rent Board's mission, serve the community and support the growing team. Director Varner said that Barbara will be the department's Board Secretary and will take over as the department's primary liaison to the Rent Board Commission, in addition to functioning as the primary departmental HR contact, participate in policy development, budget preparation, and racial equity work, amongst other initiatives, and will supervise the supervisors/managers of the Inventory and Fee Unit, the Clerical Unit, and the Public Information Unit.

## IX. Old Business

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

Commissioners Klein and Wasserman asked the Board to continue the discussion until pending legislation by the Board of Supervisors (File No. 230810) runs its course. No objection was raised, and President Gruber asked that this item remain on the agenda as Old Business for the August 2023 Board Meeting.

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X. New Business

*There was no new business.*

XII. Calendar Items

September 12, 2023

A. Consideration of Appeals

5 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Sawney.

XIII. Adjournment

President Gruber adjourned the meeting at 7:30 p.m.