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

Tuesday, February 6, 2024
at 6:00 p.m.
25 Van Ness Avenue, Room 610
San Francisco, CA 94102

I. Call to Order

Commissioner Mosbrucker called the meeting to order at 6:08 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Haley read the Ramaytush Ohlone Land Acknowledgement.

III. Roll Call

Commissioners Present: Haley; Hung; Klein; Mosbrucker; Tom; Wasserman.

Commissioners Not Present: Crow; Gruber; Qian; Sawney.

Staff Present: Koomas; Lee; Texidor; Van Spronsen; Varner.

IV. Remarks from the Public

A. Mark Isaacs, the owner at 79 Casa Way (AT240003), stated that the property was his home and asked the Board to deny the appeal. He said that the Administrative Law Judge (ALJ) heard all the arguments and determined that the tenants did not receive substantial decreases in housing services and were not entitled to any monetary awards. He stated that the tenants have no grievances nor submitted any new or additional evidence with their appeal and were only seeking to take advantage of San Francisco’s “tenant-friendly” laws to receive a monetary award. He said that he purchased the building in June 2022, started the remodel in the upper unit and performed repairs for deferred maintenance on August 17, 2022, and that two days later the subtenant notified him that they would be relocating during the remodel. He

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stated that the subtenant started living and working in their primary residence in Tiburon approximately three weeks later, and that after the tenant relocated, they only returned to the unit for an hour at a time to claim they had received decreased housing services and to bolster their Rent Board petition and civil lawsuit. He also stated that although they had already purchased a new home and were an unauthorized subtenant, they requested three buyout agreements including three months of free rent. He stated that he ultimately agreed to three months of free rent and upheld his side of the agreement but the subtenant did not. He also stated that the 8-month remodel was typical and didn't last years as was stated in the appeal, and that the construction workers reduced their work hours to minimize the disruption and inconvenience to the subtenants.

V. Approval of the Minutes

MSC: To approve the minutes of January 16, 2024.
(Wasserman/Klein: 6-0)

VI. Consideration of Appeals

A. 230 Central Avenue, Unit 7

AT230075

The tenant's petition alleging a substantial decrease in housing services was dismissed due to the tenant's failure to appear at the hearing. The tenant appealed, and the Board granted the appeal and remanded the case to the Administrative Law Judge (ALJ) to hold a new hearing. In the remand decision, the landlord was found liable to the tenant for \$420.00 for broken window blinds in the kitchen from September 27, 2022 through August 11, 2023, but the tenant's claims for a damaged clock radio, bromeliad plant, and mosquito screens were denied as those items were determined to be the tenant's personal property. The ALJ also found that the tenant did not meet his burden of proving that the landlord's failure to issue a rent receipt for July 2022 was a substantial decrease in housing services. The tenant now appeals the remand decision, alleging that his appointed representative failed to timely submit relevant evidence to the ALJ and that the Rent Board failed to remove his appointed representative from the petition.

MSC: To deny the appeal.
(Wasserman/Tom: 4-0)

B. 79 Casa Way

AT240003

The tenants appeal the decision denying the tenants' claims of decreased housing services. In the Decision, the ALJ determined that the tenants did not meet their burden of proving that there was a substantial decrease in housing services based on scaffolding, excessive construction noise, and removal of the stairlift, and that even though the ALJ found that there was a substantial decrease in housing services for ceiling and wall damage caused by construction, no refund of rent overpayments was required because the tenants had not paid rent during the relevant period. In the appeal, the tenants argue that the decreases in housing services were substantial because they substantially interfered with their enjoyment of the unit, specifically that they regularly used and relied

on the stairlift such that its removal substantially impacted them, that the excessive construction noise impacted the tenants' ability to work and exacerbated health issues, that the scaffolding deprived the tenants of natural light for two months, and that the landlord failed to timely repair the ceiling and wall damage caused by construction.

MSC: To deny the appeal.
(Wasserman/Tom: 4-0)

C. 1326 McAllister Street, Unit B

AL240002

The landlords appeal the decision granting in part the tenants' claim of unlawful rent increase. In the Decision, the ALJ found that the landlord was liable to the tenants for the sum of \$13,307.68 for rent overpayments from April 1, 2020 to December 31, 2023. In the appeal, the landlords claim that the ALJ made an error in the calculation of the rent overpayment because the ALJ assumed that the total rent paid by the tenants was \$2,018.00 per month from April 1, 2020 to May 31, 2023 when in fact the payments varied each month and never exceeded \$1,722.27, the lawful monthly rent for that period.

Appeal No. AL240002 was withdrawn on February 2, 2024.

IV. Remarks from the Public (cont.)

There were no further remarks from the public.

VII. Communications

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

- A. 2024 Rent Board Annual Report on Buyout Agreements
- B. Fiscal Year 2024-2025 and Fiscal Year 2025-2026 Departmental Budget Memorandum
- C. February 1, 2024 City Attorney's Political Activities Memorandum
- D. Departmental workload statistics for December 2023.

VIII. Director's Report

Executive Director Varner wished everyone a happy and prosperous year of the dragon and a very happy Black History Month. She also introduced the Commissioners to Susan Lee, who was present observing the meeting as the second of two brand-new Rent Board Administrative Law Judges. She told the Board that Susan Lee began with the Rent Board last month and comes with 20 years' experience as an Administrative Law Judge, first at the California Unemployment Insurance Appeals Board for 17 years, and most recently with the California Public Utilities Commission. Director Varner said that Ms. Lee was previously a supervising attorney in landlord-tenant law at the East Bay Community Law Center and is proficient in

Cantonese. Director Varner also provided an update regarding the Housing Inventory and Fee, and told the Commissioners that as of February 6, the Rent Board has collected over one-third of its total projected 2024 fee collection amount, on target for the year. Director Varner said that 2024 Rent Board Fee payments are due by the end of the day on March 1, and that payments postmarked on or before March 1 will be received as timely, but payments received after March 1 and before April 1 will be assessed a 5% late penalty. She told the Board that owners can easily make a payment on the Rent Board's online portal, or by mailing in a check, or paying in person at the Treasurer and Tax Collector's office in City Hall during business hours. Director Varner reminded the Commissioners that Housing Inventory reporting was quite low last year and requested that they encourage owners they know to report to obtain their rent increase licenses. She also said that the Rent Board will be engaging in further outreach and partnership to encourage owners to report. Director Varner told the Board that Rent Board staff will be conducting outreach at the Chinese New Year Community Fair in Chinatown on Saturday, February 24, the same day as the parade. She also told the Commissioners that the Rent Board will participate in the Westside Affordable Housing Resource Fair sponsored by Self-Help for the Elderly on March 9 at the City & County Fair Building in Golden Gate Park. With regard to legislation, Director Varner told the Board that two pieces of legislation sponsored by Supervisor Melgar are still at the Board of Supervisors Land Use committee, Board of Supervisors File No. 231185, which would amend the Planning Code to change the Conditional Use Authorization requirement for removal of an unauthorized dwelling unit (UDU) and Board of Supervisors File No. 231224, which would amend the Housing Code to authorize occupants of residential dwelling units to sue a property owner for substandard housing conditions as defined in Housing Code Section 1001, if the conditions pose a substantial risk to the occupants' health and safety. She also told the Board that Proposition D is on the March 5 ballot and if approved, will amend the City's Campaign and Governmental Conduct Code, which contains the City's rules regarding election campaigns, lobbying, government ethics, conflicts of interest, and protections for whistleblowers. Director Varner also told the Commissioners that their Form 700s will be due on Tuesday, April 2 this year and reminded them to complete their Sunshine and Ethics training as well as their Form 700 well in advance of the deadline. She said the Ethics Commission is the resource for questions about Form 700 filings, but they are very busy this time of year with questions from all City filers and sometimes may not respond to the Commissioners right away, so to contact Ethics well in advance with any questions. She reminded the Board that they would be fined \$100 per day for filing untimely, and they would not be able to participate in and vote in the next Board meeting.

IX. Old Business

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

Commissioners Mosbrucker and Klein requested that the item be continued to the March 12, 2024 meeting and no objections were raised.

B. Fiscal Year 2024-2025 and Fiscal Year 2025-2026 Departmental Budget

a. Public Comment Regarding Budget

There were no remarks from the public.

b. Budget Presentation

Executive Director Varner made the second of two budget presentations to the Board for the Fiscal Year 2024-2025 and Fiscal Year 2025-2026 two-year budget cycle. For some background, she explained to the Commissioners that Departmental budget preparation contains three phases. She stated that the Rent Board is currently in the first phase, which is called the department phase where the department proposes its future-year budget to the public and its commission, and that the last day of the department phase is February 21, when budgets are due to be loaded in the system. Director Varner further explained that the second phase is the Mayor's phase, when all budgets are reviewed by the Mayor's office and any adjustments are made, and during which, the Mayor's Budget Book is prepared. She then said that the third stage is the Board of Supervisors' phase, where departments give a presentation to the Board of Supervisors, which the Rent Board is scheduled to do in May. Additionally, the budget is signed and then each department certifies in late July or early August that the allocated budget is sufficient to meet departmental needs. She told the Board that the department is seeking the Commissioners' vote and approval of the Fiscal Year (FY) 2024-2025 and 2025-2026 proposed budget. Director Varner also reminded the Board that the Mayor's FY 2024-2025 and FY 2025-2026 Budget Instructions call for all General Fund Departments to reduce their budgets by 10%, however, as an Enterprise department generating its own fee, the Rent Board is required to balance within its own funding stream. Director Varner proposed a budget of \$13.8M for FY 2024-2025. She explained that this is \$3.9M less than the current fiscal year's budget as the Rent Board has worked carefully to identify the myriad of costs associated with its move and new office space tenant improvements and is in the process of encumbering all associated costs this fiscal year. She said that the Rent Board is in a good position due to the reduction in office space rent and that the department has worked to reduce or carefully project interdepartmental work orders. The Rent Board is also currently commencing professional services projects supporting technology and business workflow modernization. As Director Varner stated at the last commission meeting, departmental revenue is primarily comprised of the funds generated by the Rent Board fee collection. She explained that with this proposed budget, the total departmental revenue is calculated based on a Rent Board per-unit fee amount of \$59, multiplied by the number of units that are being assessed. FY 2025 projections show approximately 237,000 units. Allowing for a 94% collection rate of the fee, together with other smaller revenue sources, the Rent Board projects approximately \$12.7M in FY 2025. She stated that in FY 2025-2026, the Rent Board anticipates the need to increase the fee to \$64 and the budget to increase to about \$14.3M. Regarding expenditures, Director Varner said that the Rent Board's expenditures are comprised of salaries and fringe benefits, non-personnel services, materials and supplies, and work orders with other departments. The top three items, salary, fringe, and the allocation of indirect cost reimbursement are all centrally loaded based on the number of positions in the department, budgeting at the top step of each classification. The largest of the expenditures is salary and fringe, numbers that increase annually and sometimes biannually due to COLAs, step increases, and other negotiated increases. The vast majority of the department's proposed FY24-25 budget would go to pay labor costs upwards of 80%. Director Varner then guided the Commissioners to view the proposed organizational chart to understand that the Rent Board is currently budgeted for 50 full time employees (FTE). She confirmed that no new positions have been added to the proposed budget for FY 2024-2025.

The department filled 11 vacancies in FY 2022-2023 and, to date, has filled 8 vacancies in FY 2023-2024. Director Varner further explained that currently, the department has 9 vacancies, with one temporarily filled. Six of these vacancies are in some stage of the hiring and recruitment process while two positions will be held vacant for budgeted attrition savings. She stated that the positions currently in the hiring and recruitment process include one 1823 Senior Administrative Analyst in the Inventory and Fee Unit, and three 2975 Rent Board Specialists, one 2982 Rent Board Supervisor, and one 1822 Administrative Analyst in the Public Information Unit. Hiring across the City continues to take a significant amount of time due to Civil Service hiring requirements and staffing shortages at the Department of Human Resources. Due to these delays, the department anticipates going into FY24-25 with salary savings of \$2.7M. With regard to other costs, Director Varner stated that the Rent Board has allocated about \$375,000 in Fiscal Year 2025, dropping that to about \$350,000 in Fiscal Year 2026 for professional and specialized services, comprised of regular, ongoing database, licensing, and software costs. Ordinary business machine costs, materials, and supplies will hover around \$45,000. Director Varner summarized that ultimately projections show the Rent Board with \$13.8M in revenue in Fiscal Year 2025 and about \$2.7M in salary savings that it would bring into Fiscal Year 2026. Director Varner then invited questions from the Commissioners. With no inquiries on the proposed budget, the Board made and voted upon the following motion:

MSC: To approve the proposed departmental budget for Fiscal Years 2024-2025 and 2025-2026.
(Wasserman/Klein: 6-0)

X. New Business

There was no new business.

XI. Calendar Items

March 12, 2024 – regular in-person meeting at 25 Van Ness Ave, Room 610.

A. Consideration of Appeals

1. 6 appeal considerations

B. Old Business

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

Reader of the Ramaytush Ohlone Land Acknowledgement – Commissioner Hung.

XII. Adjournment

Commissioner Mosbrucker adjourned the meeting at 6:38 p.m.