



London N. Breed
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DAVID WASSERMAN

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

Tuesday, June 11, 2024
at 6:00 p.m.
25 Van Ness Avenue, Room 610
San Francisco, CA 94102

I. Call to Order

President Gruber called the meeting to order at 6:05 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

President Gruber read the Ramaytush Ohlone Land Acknowledgement.

III. Roll Call

Commissioners Present: Crow; Gruber; Haley; Mosbrucker; Qian; Wasserman.

Commissioners Not Present: Klein.

Commissioners Appearing Late: Hung (6:08 p.m.); Sawney (6:09 p.m.); Tom (6:10 p.m.).

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

IV. Remarks from the Public

A. Michael Foster, the landlord at 115 Clayton Street (AL240022), said that he had petitioned the Rent Board to raise the tenants' rent from \$2,001 per month to \$4,001. He said that he submitted evidence showing that when the lease commenced the comparable units in the area were renting for \$1,995 to \$2,500 per month and today they rent for \$4,500 to \$7,000 per month. He said that he repainted the property and made repairs totaling \$30,000, and that other units they are renting at the property are

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currently paying \$6,500 and \$7,000 per month in rent. He said that there was never a written lease for this unit and that the tenants are relatives of the prior owner, and when he bought the property, the seller told him that his full-price offer would not be accepted if they did not allow the tenants to stay. He said that the tenants are currently paying only 30% of the current market rate. He asked the Board to allow him to raise the rent to a reasonable amount.

V. Approval of the Minutes

MSC: To approve the amended minutes of May 14, 2024.
(Wasserman/Tom: 6-0; Crow, Qian, Sawney, abstaining)

VI. Consideration of Appeals

A. 120 Ellis Street, Unit 301

AT240028

The tenant appeals the dismissal of the tenant's claim for decreased housing services. The Administrative Law Judge (ALJ) dismissed with prejudice the tenant's petition for decreased housing services for the tenant's failure to appear at a scheduled remote mediation session. In the appeal, the tenant submitted a declaration signed under penalty of perjury stating that the tenant did not receive the notice of the mediation because the mailbox was inaccessible as the key to the mailbox had been stolen.

MSC: To accept the appeal and remand the case for a new hearing. Should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be scheduled.
(Mosbrucker/Wasserman: 5-0)

B. 543 Buena Vista Avenue West, Unit 9

AT240020

The tenant appeals the dismissal of the tenant's claim for decreased housing services. The ALJ dismissed with prejudice the tenant's petition for decreased housing services due to the tenant's failure to appear at the scheduled remote mediation session. In the appeal, the tenant submitted a declaration signed under penalty of perjury stating that the tenant had not received the notice of the mediation because it had been mailed to an incomplete address.

MSC: To accept the appeal and remand the case for a new hearing. Should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be scheduled.
(Mosbrucker/Wasserman: 5-0)

C. 405 Serrano Drive, Unit 5D

AT240029

The tenant appeals the decision denying in part the tenant's claims for decreased housing services. In the Decision, the ALJ found the landlord liable for \$900.00 for the mold/mildew in the closet from December 13, 2023 through April 30, 2024 but denied the tenant's other claims. In the appeal, the tenant alleges that the ALJ abused their discretion by not allowing

the tenant to provide an opening statement and denying her claims for breach of contract, lack of venting in the unit, inexperience of the kitchen cabinet painter, non-functioning elevator, and flooding in the dining room.

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

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

D. 1341 La Playa Street, Unit 21

AL240021

The landlord appeals the decision granting in part the tenant's claims for decreased housing services. In the Decision, the ALJ found the landlord liable to the tenant for \$3,675.00 for failure to complete mandatory seismic retrofit for the period of August 1, 2020 through August 13, 2023 and failure to provide an offsite package receiving service from January 1, 2023 through August 13, 2023 but denied the tenant's other claims. In the appeal, the landlord alleges that the seismic work was completed expeditiously and timely and that the tenants were notified promptly of the work and risks involved.

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

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

E. 115 Clayton Street

AL240022

The landlords appeal the decision denying their petition to increase the tenants' rent based on rents for comparable units under Rules and Regulations Section 6.11. In the Decision, the ALJ determined that the landlords did not meet their burden of proving that the initial rent in January 2003 was set significantly below that of comparable units, and therefore were not entitled to impose a rent increase to the tenants above the applicable allowable limits. In the appeal, the landlords claim that the Decision was unjust and they could provide additional information.

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

F. 443 – 14th Street

AL240025

The master tenant submitted the appeal 41 days late because he was out of town when the decision was mailed to his residence and he was dealing with some personal issues.

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

The master tenant untimely appeals the decision granting the subtenants' claim that they paid a disproportionate share of the rent under Rules and Regulations Section 6.15C(3). In the Decision, the ALJ found the master tenant liable for \$2,464.00 in rent overpayments to the subtenant residing in Bedroom 2 and \$2,003.02 in rent overpayments to the subtenant residing in Bedroom 1. In the appeal, the master tenant alleges that the signed subleases for both subtenants include an agreement to equally share the costs of the unit if one of the other rooms in the unit is vacant, that the tenant in Bedroom 2 failed to pay utilities for the past 27 months, that the proportionate share of utilities should be based on the actual monthly PG&E and internet bills rather than using a fixed estimate, and that the ALJ erred in the valuation of each room and furnishings.

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

G. 841 Central Avenue

AT240023

One tenant appeals the decision granting the landlord's petition for a capital improvement passthrough. In the Decision, the ALJ granted the landlord's petition for a capital improvement passthrough to two units for restoration of the façade of the building. In the appeal, one tenant alleges that she should not be required to pay the monthly capital improvement passthrough back to November 1, 2023 because the landlord failed to notify the tenants of the effective date of the passthrough when it originally sent the notice of rent increase.

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

H. 254 - 262 West Portal Avenue

AL240024

The landlords appeal the decision granting their petition for a capital improvement passthrough for a mandatory soft-story seismic retrofit. In the Decision, the ALJ granted the landlords' petition for a capital improvement passthrough for 5 residential units but excluded units 3, 4, and 5 since the engineering work for the seismic retrofit commenced within 6 months of when the tenants moved in. In the appeal, the landlords argue that units 3, 4, and 5 should not be exempt from the passthrough since the date of commencement of the work should be when the physical construction work started, and the tenants resided in their units at least 6 months prior to that date.

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

I. 1208 – 6th Avenue

AT240026

The tenant appeals the decision denying in part the tenant's application for deferral of general obligation bond passthroughs based on financial hardship. In the Decision, the ALJ granted the tenant's request to defer certain eligible portions of the general bond passthrough for tax year 2022-2023 but denied deferral of the general obligation bond passthroughs for tax years 2016-2020 based on a prior Rent Board decision, and tax years

2020-2022 because the Hardship Application was not filed within one year of the effective date of those passthroughs. In the appeal, the tenant alleges that the ALJ made an error since the landlord agreed that the tenant has had financial hardship since 2016, the decision fails to give the tenant any meaningful financial relief, decreased housing services persist in the unit, and that the Hardship Application was filed in a timely manner as soon as the landlord notified the tenant that the general obligation bond passthroughs would be included in the annual rent increase.

MSC: To accept the appeal and remand the case to the ALJ to reconsider the general obligation bond passthrough for tax year 2022-2023 based on the June 10, 2024 amendments to the Rent Ordinance.

(Mosbrucker/Wasserman: 5-0)

IV. Remarks from the Public (cont.)

A. Michael Foster, the landlord at 115 Clayton Street (AL240022), said that he has been a real estate broker for the last 25 years but is unfamiliar with rent control laws. He asked the Board for referrals to other resources who could help him complete the necessary forms to be able to increase the rent to close to market rate. He said that when he filed the appeal, he attached additional evidence but it did not make it into the file.

VII. Communications

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

- A. Board of Supervisors Ordinance 92-24, File No. 240174, amending the Rent Ordinance regarding general obligation bond passthroughs.
- B. Rent Ordinance Amendments to Sections 37.2 and 37.3, Table of Contents, and List of Amendments.
- C. Departmental workload statistics for April 2024.

VIII. Director's Report

Director Varner introduced the commissioners to new staff member Samantha Yee, a Rent Board Specialist in the Rent Board's Public Information Unit, who most recently worked at the Public Defender's office as a Court Alternative Specialist for 5 years and previously worked at the Milwaukee Justice Center at the Milwaukee County Court system. She said that Sam has a BA from Marquette and a Master's degree from Columbia. Director Varner said that the Rent Board is expecting one or two new employees to start in July. She told the Commissioners that Rent Board fee collection is at 86%, and the timely fee payment period has ended. She said that 17,000 delinquency notices will go out around June 24 and once the 30-day delinquency period has ended, the unpaid obligations will be referred to the City's Bureau of Delinquent Revenue. With regard to the Housing Inventory, Director Varner said that 17,810 parcels have reported for a total of 102,977 reports with 88,565 licenses generated.

Regarding budget, Director Varner said that the Rent Board presented the department's proposed Fiscal Year 2024-2025 and 2025-2026 budget of \$13.8M at the Board of Supervisors Budget and Appropriations Committee on May 15, and she expects the budget to be passed by the Board of Supervisors and certified this summer. With regard to outreach, Director Varner said that staff members Max Garcia, Abe Jue, and Van Lam, with Jennifer Rakowski, presented to the legal team at Open Door Legal on June 7, discussing decreased housing services and the Housing Inventory. She said that on June 10, Diana Flores and Yeni Martinez Solis presented to the housing team at the SF Latino Task Force regarding Rent Board law and procedures. She also said that Rent Board Public Information Unit staff will give a training to the Justice and Diversity Center's Homeless Advocacy Project staff next month. Director Varner gave an update regarding legislation and told the Commissioners that Supervisor Melgar's 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, is still at Land Use Committee. She said that the Commissioners received in their packets today updated relevant portions of the Rent Ordinance effective June 10, 2024, and operative July 1, 2024, to confirm to Ordinance 92-24, as part of Board of Supervisors File No. 240174, which has amended the Rent Ordinance to change the methodology used to calculate the amount of property taxes attributable to general obligation bonds that landlords can pass through to tenants, and which allows tenants who can demonstrate hardship to seek deferral of the entire general obligation bond passthrough. She said that this legislative amendment applies to general obligation bond passthroughs that are effective on or after July 1, 2024 and that the Rent Board has identified a need to amend Rent Board Rules and Regulations Section 10.15 as a result of this change. She requested to add this for discussion as a New Business item at the July 16 board meeting. *(The Commissioners agreed to include this item as a New Business item at the July 16 board meeting.)*

IX. Old Business

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

Given that no action has recently been taken on this item, and that it appeared that no action would be taken on this item in the near future, Commissioner Sawney requested that this item be removed from the agenda and no Commissioners raised any objection. The Commissioners agreed that this item may be agendized at a future board meeting should action need to be taken.

X. New Business

There was no new business.

XI. Calendar Items

July 16, 2024 – regular in-person meeting at 25 Van Ness Ave, Room 610.

A. Consideration of Appeals

- a. 2 appeal considerations

B. New Business

a. Proposed Amendments to Rules and Regulations Section 10.15 Tenant Financial Hardship Applications regarding General Obligation Bond Passthroughs

Reader of the Ramaytush Ohlone Land Acknowledgement – Commissioner Sawney.

XII. Adjournment

President Gruber adjourned the meeting at 7:15 p.m.