



London N. Breed
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Executive Director

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

Tuesday, November 8, 2022
at 6:00 p.m.

Remote Meeting via video and teleconferencing
<https://bit.ly/3DPyIvM>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2480 631 7255

On February 25, 2020, Mayor London Breed declared a state of emergency in regards to COVID-19. Thereafter, Governor Newsom issued a statewide order for all residents to shelter-in-place, and following that, numerous orders of the county health officer and supplemental Mayoral proclamations and directives were issued to slow and reduce the spread of COVID-19.

In several Mayoral proclamations and memorandums, the Mayor and City Attorney detailed emergency orders suspending select laws applicable to boards, commissions, and other policy bodies, and permitting boards and commissions to meet, so long as the meetings are held remotely. Additionally, at its October 11, 2022 meeting, the Rent Board Commission made findings to allow teleconferenced meetings under California Government Code Section 54953(e). Therefore, the Rent Board Commission meetings will be held via videoconferencing and will allow for remote public comment until further notice.

The Commission strongly encourages interested parties to submit their comments in writing, by 12:00 noon on November 8, 2022 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3DPyIvM>. 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 during the COVID-19 emergency.

I. Call to Order

President Gruber called the meeting to order at 6:07 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Tom read the Ramaytush Ohlone Land Acknowledgment.

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III. Roll Call

Commissioners Present: Crow; Gruber; Haley; Mosbrucker;
Sawney; Tom; Wasserman.

Commissioners Not Present: Klein; Qian.

Commissioners Appearing on the Record Late: Hung, 6:36 p.m.

Staff Present: Brandon; Dizon; Flores; Koomas; Varner.

IV. Approval of the Minutes

MSC: To approve the minutes of October 11, 2022.
(Wasserman/Mosbrucker: 6-0; Haley abstaining)

V. Remarks from the Public

A. Justin Goodman, the attorney for the landlord at 1589 Sacramento Street, #9 (AT220040), requested confirmation that the Commissioners had received the parties' joint request to continue the Board's consideration of the appeal for 60 days.

B. Vivien Dwyer, a tenant at 1965 Page Street (AL220042), stated that she had not yet seen the landlord's revised ADU construction plans and asked that the case be remanded for a supplemental hearing so that the tenants can review the new plans and raise any objections.

C. Carl Russo, a tenant at 1965 Page Street (AL220042), stated that the sufficiency of bike storage in the building is an important issue and that both he and co-occupant Denise Bradley keep bicycles on the premises that they use to commute to work each day. He stated that the revised ADU construction plans submitted by the landlord on appeal are confusing and contradictory, and that the tenants deserve a chance to review the landlord's revised plans at a supplemental hearing.

D. Denise Bradley, a tenant at 1965 Page Street (AL220042), stated that the landlord's revised ADU construction plans were not part of the original hearing and asked that the landlord's appeal be denied or remanded for a supplemental hearing to allow the tenants to review the plans.

E. Barbara Fedun, the landlord at 668 Waller Street (AL220046) stated that the purpose of Rent Board Rule 1.21 is to prevent tenants who reside elsewhere from taking advantage of rent-controlled units. She stated that the tenant appellee previously told code enforcement officials that he resided at a property he owns near the subject unit, which is where he is required to reside pursuant to a deed of trust. She stated that the tenant did not claim to live at the subject unit until she filed her rent increase petition.

F. Gregory Ducote, a representative for the landlord at 668 Waller Street (AL220046), stated that the ALJ's reasoning was flawed and inconsistent. He urged the Board to reverse the decision.

G. Laura Campbell, the attorney for the landlord at 1965 Page Street (AL220042), stated that she agrees with the ALJ's memorandum and believes the case should be remanded for the owner to describe their revised ADU construction plans, which will show the sufficiency of bike storage.

VI. Consideration of Appeals

A. 1589 Sacramento Street, #9

AT220040

The landlord's petition for a rent increase pursuant to the Costa-Hawkins Rental Housing Act was initially denied. The Administrative Law Judge (ALJ) found that an original occupant, Christine Nguyen, continued to permanently reside in the unit, and therefore the landlord's rent increase effective December 15, 2019 was determined to be null and void. The landlord's appeal of the initial decision was considered by the Rent Board Commissioners on July 12, 2022, who voted to accept the appeal and remand the case to the ALJ to find that tenant Christine Nguyen is no longer an original occupant. In the remand decision, the ALJ granted the landlord's petition and found that no original occupants continue to permanently reside in the unit. The tenants now appeal the remand decision, and argue in part that Christine Nguyen remains an original occupant and that a Commissioner who voted to grant the landlord's initial appeal had a conflict of interest.

Commissioner Wasserman recused himself from consideration of this appeal. He stated that the tenant's attorney submitted a formal objection to his participation in the appeal because he once shared office space with the landlord's former attorney, Daniel Stern, who is now deceased. He stated that he was not law partners with Mr. Stern, Mr. Stern did not litigate this case at the Rent Board, and the landlord has never been his client. He stated that although he does not believe his recusal is mandated or required, he had recused himself to avoid the appearance of a conflict of interest.

The Commissioners unanimously agreed to continue consideration of this item for 60 days, per agreement of the parties.

B. 2443 - 38th Avenue

AL220041

The tenant's petition claiming an unlawful rent increase was granted. The ALJ determined that the property consists of two dwelling units and therefore the landlord's rent increase effective July 10, 2022 was not authorized by the Costa-Hawkins Rental Housing Act. On appeal, the landlord states that he did not appear at the hearing because he believed his attorney would appear on his behalf, and that the property does not contain two units, but is a single-family home that was rented to the tenant in its entirety.

MSC: To accept the appeal and remand the case for a new hearing.
(Wasserman/Gruber: 5-0)

C. 1965 Page Street

AL220042

The tenants' objection to the landlord's ADU Declaration was granted. The ALJ found that the landlord's proposed ADU construction project, resulting in a reduction of bike parking spaces,

constitutes a substantial reduction in housing services pursuant to Rent Ordinance Section 37.2(r). On appeal, the landlord argues in part that the landlord's current construction plans will accommodate more bike parking spaces than previously proposed.

MSC: To accept the appeal and remand the case for a supplemental hearing to allow consideration of the proposed amended plans and to give the tenants an opportunity to respond.
(Wasserman/Gruber: 5-0)

D. 235 Eddy Street, #219

AL220043, AT220045

The landlord's appeal was filed 1 day late because their work email was inaccessible on the last day to appeal and the Rent Board no longer accepts submissions by fax.

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

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

The tenant's appeal was filed 7 days late because he did not know the landlord was going to appeal the decision until after the appeal deadline had passed.

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

The tenant's petition alleging decreased housing services was granted in part, and the landlord was found liable to the tenant in the amount of \$450.00 for the loss of premium television channels. On appeal, the landlord argues that premium television channels were never provided to the tenant by the landlord. In his appeal, the tenant argues that the monthly rent reduction should have been valued at \$130.00 per month instead of \$30.00 per month.

MSC: To deny the landlord's appeal (AL220043).
(Sawney/Mosbrucker: 5-0)

MSC: To deny the tenant's appeal (AT220045).
(Tom/Gruber: 5-0)

E. 800 48th Avenue, #6

AT220044

The tenants' appeal was filed 1 day late because they were working outside of San Francisco on the last day to file an appeal and arrived at the Rent Board's office after it had closed.

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

The tenants' petition alleging decreased housing services was granted in part, and the landlord was found liable to the tenants in the amount of \$3,540.00 for a loss of garage parking, mold and mildew, and the removal of laundry machines. On appeal, the tenants claim that they've encountered various new problems in the unit, including issues with their phone and internet service, mold and humidity that has damaged their clothing, and bank fraud by the landlord's employees.

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

F. 668 Waller Street

AL220046

The landlord appeals the decision denying her petition under Rules and Regulations Section 1.21. In the decision, the ALJ found that the landlord petitioner did not meet the burden of proving that the subject unit was not the tenant respondent's principal place of residence at the time the petition was filed. The landlord appeals, arguing that the tenant's principal place of residence is actually one of the two properties he owns and claims residence in, and that it's unfair for a tenant with two other residences to receive the benefit of rent control.

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

G. 542 Presidio Avenue

AL220047

The tenants' petition claiming an unlawful rent increase under the Costa-Hawkins Rental Housing Act was granted. It was determined that tenant Patrick Domingo is an original occupant who continues to permanently reside in the subject unit, and therefore the landlord's rent increase effective April 27, 2022 was found to be null and void. On appeal, the landlord claims in part that the tenant sublet the entire unit to his brothers and actually resides in a house he owns with his wife.

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

V. Remarks from the Public (cont.)

There were no remarks from the public.

VII. Communications

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

A. Articles from the SF Chronicle, SF Examiner, and KQED.

B. Monthly workload statistics for August 2022 and September 2022.

C. Proposed Rent Board Rules and Regulations Section 2.21 – Draft 1.

VIII. Director's Report

A. Rent Board Operations Update During COVID-19 Health Emergency

Executive Director Varner told the Board that in regards to current departmental operations, the office remains open to the public at reduced hours for the past month, in line with City guidance and with support from the public. She said that the phone counseling line remains open to the public and busy as usual, with the hours of 9:00 a.m. – 12 noon and 1:00 p.m. – 4:00 p.m., Monday through Friday, excluding holidays, and that staff continue to work on a hybrid basis both at home and in the office. Director Varner explained that the department continues to work with DPW Architecture and Bureau of Building Repair and other collaborators on the new space on the 6th and 7th floors.

Executive Director Varner explained that in regards to the Housing Inventory and Rent Board Fee, the 2023 Rent Board Fee & Housing Inventory Informational Notices are being mailed out to all property owners informing them of their requirement to report into the Housing Inventory, their anticipated March 1 Rent Board fee obligation, how to request an exemption from the Rent Board fee if they believe they should be exempt, and how to report into the Housing Inventory. She reminded the public that the Housing Inventory reporting deadline for owners of all properties is March 1, 2023.

She reported that Notices of Delinquent 21-22 Rent Board Fee have been sent to property owners who have not paid their 21-22 fee, and their 30 days to pay with late penalties has now run. She explained that the department is currently cleaning up data and will soon refer the delinquent fee obligation to the City's Bureau of Delinquent Revenue, where any delinquent property owners will be charged a commission on top of the outstanding fee and late penalties.

Executive Director Varner provided an update in regards to legislation, and told the Commissioners that Board of Supervisors (BOS) File No. [210866](#), *version 9*, was passed by the Board of Supervisors and signed by the Mayor on October 28, 2022. She said that this legislation was one of several measures put forth by the Board of Supervisors this year that sought to upzone single-family home lots in San Francisco and streamline the approval process. She said that version 9 of this legislation amends the Planning Code and Rent Ordinance to permit up to four dwelling units per lot, and up to six dwelling units per corner lot in all residential zoning districts, subject to certain requirements. She said that in order to receive the density exception, property owners must own the lot for a minimum of one year and all new units developed under the density exception must be subject to the Rent Ordinance.

Executive Director Varner said that BOS File No. 221021, which would make changes to the Planning Code's HOME-SF Program (Home Ownership Means Equity – San Francisco) is still before the Land Use and Transportation Committee. She said that the HOME-SF Program allows density bonuses and zoning code modifications to new development projects that agree to provide certain amounts of affordable housing, and that this legislation would expand the HOME-SF program to projects that agree to subject the residential units in the development to rent control under the Rent Ordinance instead of providing additional on-site affordable units. Director Varner then introduced the Board to new Rent Board Senior Clerk Michelle Dizon,

who began with the department on October 31. She said that Michelle came to the Rent Board most recently after having worked as a clerk in corporate insurance and law firms, and that she is currently finishing her paralegal studies, and that the Clerical Unit is now fully staffed. The Commissioners welcomed the new employee.

Executive Director Varner briefly touched upon a few items that Commissioner Sawney had brought forward at the October meeting. She said that regarding Digital Distribution of Meeting Material, staff will send meeting materials and documents to the Commissioners via OneDrive, using their sfgov email addresses, commencing with the January 2023 meeting. Director Varner said that the FY 21-22 Annual Statistical Report will be released the following month. She also told the Board that the Rent Board's annual racial equity survey is pending and the link would be sent to the commissioners to be completed by November 18.

Executive Director Varner also told the Commissioners that, importantly, the current remote meeting platform that is in use at Board meetings, Webex Events, will be sunsetting in the new year. She explained that all Commissioners have been directed by the City's Department of Technology to begin using the new Webex meetings by December, and test meetings will be run before the December 13 meeting. Finally, Director Varner told the Board that a staff and commission holiday party, will be on December 15 from 4:00-7:00 p.m. at an outdoor location near the office.

IX. Old Business

A. AB 361, Mayoral Directive, and Future Remote Commission Meetings

Executive Director Varner stated that during previous Board Meetings, the Commissioners made findings to allow teleconferenced meetings pursuant to California Government Code 54953(e), and that the Commissions must make a similar finding at least once every 30 days to continue having teleconferenced meetings. After Executive Director Varner read the Board's findings into the record, Commissioner Wasserman made a motion, seconded by Commissioner Tom, to make a resolution making findings to allow a teleconferenced meeting on December 13, 2022 pursuant to California Government Code 54953(e).
(Wasserman/Tom: 8-0)

B. Parental Leave Policy for Boards, Commissions, and Advisory Bodies

At the Board's October 11, 2022 meeting, staff agreed to draft a proposed regulation Section 2.21 to incorporate the City's new Parental Leave Policy (SF Administrative Code Chapter 67B) into the Rent Board's Rules and Regulations, Part II. Senior Administrative Law Judge Joey Koomas stated that Draft 1 of the proposed regulation had been provided to the Commissioners by Rent Board staff, and opened the discussion for any questions or revisions to the draft regulation. The Board then made and voted upon the following motion:

MSC: To move out for public hearing the proposed Rules and Regulations
Section 2.21 - Draft Version 1.
(Wasserman/Sawney: 8-0)

X. New Business

There was no new business.

XI. Calendar Items

December 13, 2022 – remote meeting via WebEx Events

A. Consideration of Appeals

6 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Qian.

XII. Adjournment

President Gruber adjourned the meeting at 7:40 p.m.