



Edwin M. Lee
Mayor

Robert A. Collins
Executive Director

DAVID GRUBER
PRESIDENT

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

CALVIN ABE
DAVE CROW
SHOBA DANDILLAYA
RICHARD HUNG
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
KENT QIAN
DAVID WASSERMAN

Tuesday, December 13, 2016
at 6:00 p.m.
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

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

II. Roll Call

Commissioners Present: Crow; Dandillaya; Gruber; Hung; Marshall; Mosbrucker;
Mosser; Qian; Wasserman.
Commissioners not Present: Abe.
Staff Present: Collins; Lee; Varner.

Commissioner Mosbrucker appeared on the record at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 15, 2016.
(Marshall/Wasserman: 5-0)

IV. Remarks from the Public

A. Erin Singer, one of the tenants at 1367 San Bruno Avenue (AT160134), told the Board that the lots have always functioned as one lot, and that there is still a bedroom connected to the tenants' unit that sits on top of their unit. Ms. Singer stated that she lives in one of the areas hardest hit by the rent crisis and that she will have to close her business if it is found the property is not under rent control.

B. Michael Bacigalupi, the landlord of 1367 San Bruno Avenue (AT160134), told the Board that he has lived next door to the property his whole life, and it is clear that the property is a single-family dwelling.

V. Consideration of Appeals

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A. 150 Brighton Avenue, Lower Unit

AL160133

The landlord's appeal was filed 7 days late because the landlord was in mourning due to her husband's recent death.

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

The tenant's petition alleging a substantial decrease in housing services and an unlawful rent increase was granted, and the landlord was found liable to the tenant in the amount of \$5,436.17 for rent overpayments resulting from null and void increases, and \$4,445.00 for rent reductions corresponding to the decrease in housing services. The landlord appeals the decision on the grounds of financial hardship.

MSC: To grant the appeal and remand the case to the ALJ to consider the landlord's claim of financial hardship.
(Marshall/Wasserman: 5-0)

B. 636 – 48th Avenue

AT160130

The tenant's petition alleging decreased housing services for garden removal, garage workbench removal and broken security gate on the side of the house was partially granted. The landlord was found liable to the tenant in the amount of \$1,200.00 for the broken gate lock. On appeal, the tenant argues that she began gardening immediately upon commencement of the tenancy and that she had the permission of the landlord to garden since the inception of the tenancy.

MSC: To recuse Commissioner Wasserman from the consideration of this appeal.
(Hung/Mosbrucker: 4-0)

MSF: To grant the appeal.
(Mosbrucker/Marshall: 2-3; Dandillaya, Gruber, Mosser dissenting)

MSC: To deny the appeal.
(Gruber/Mosser: 3-2; Marshall. Mosbrucker dissenting)

C. 537 Shrader Street #2

AL160131

The landlord's appeal was filed 5 days late because the landlord and the property manager believed they had 15 business days to file an appeal after mailing of the decision, not 15 calendar days; because the landlord travels for work and cannot always pick up his mail on a timely basis; and because the property manager was on vacation.

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 granted. The ALJ found that the landlord was liable to the tenant in the amount of \$1,854.99 for loss of a carport parking space. The ALJ determined the value of the carport parking space to be \$175.00 a month at the inception of the tenancy. On appeal, the landlord argues that the tenant supplied parking comparables from 2016, not the inception of the tenancy; that those comparables were for enclosed parking and not a carport; that the landlord's comparables were from the time period of the tenant's original move-in; and that the rent amount determined for this service is too high.

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

D. 1367 San Bruno Avenue

AT160134

The landlord's petition seeking a rent increase for capital improvements was denied due to lack of Rent Board jurisdiction over the subject unit. The ALJ found that the landlord met his burden of proving that the subject unit is a single-family dwelling whose title is separately alienable from any other dwelling unit under Civil Code Section 1954.52(a)(3). On appeal, the tenant argues that the subject unit is one attached unit of a 3-unit structure and subject to Rent Board jurisdiction.

MSC: To recuse Commissioner Mosbrucker from the consideration of this appeal.
(Crow/Gruber: 5-0)

MSC: To deny the appeal.
(Wasserman/Gruber: 3-2; Crow, Marshall dissenting)

E. 997 Sanchez Street

AT160132

The landlord's petition for a rent increase from \$1,835.00 to \$3,980.42 based on comparable rents was granted. The ALJ found that the a special relationship existed between the landlord and the tenant because the tenant moved into the subject unit as the landlord's property manager, and the rent was set low as result of this relationship. The tenant appeals, arguing that the landlord and the tenant set a proposed rent of \$2600.00 for the unit prior to the commencement of the tenancy, that all subsequent agreements were predicated upon this initial market valuation, that the ALJ's sole basis for comparison and determination of the rent was the comparable rent at only one property, and that the ALJ disregarded the comparable rent amount provided by the tenant for a different property.

MSC: To grant the appeal and remand the case to the ALJ to allow the landlord to contest the tenant's evidence that the parties agreed to an initial rent of \$1,835.00 based on a market rent of \$2,600.00.
(Mosbrucker/Wasserman: 5-0)

F. 1831 Larkin Street #6

AT160129

The tenant appeals the decision granting the landlord's petition under Rules and Regulations Section 1.21. In the decision, the ALJ found that the subject unit was not the tenant's principal place of residence at the time of filing of the petition, that there was no other tenant in occupancy in the unit, and that the rent increase was authorized by Section 1.21. On appeal, the tenant argues that her temporary absence from the subject premises was due to a family emergency, and that all of her personal possessions are in the subject premises.

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

IV. Remarks from the Public (cont.)

A. Martha McAfee, of Property Management Services who represents the landlord at 997 Sanchez Street (AT160132) stated that they did not file any additional response to the tenant's appeal because everything stated in the tenant's appeal was part of the testimony already heard at the original hearing.

B. Laura Luevano, the other tenant at 1367 San Bruno Avenue (AT160134) read a section of the Costa-Hawkins Rental Housing Act to the Board, and stated that the Department of Building Inspection report states that unit 1367 is part of the entire building.

C. Erin Singer, the tenant at 1367 San Bruno Avenue (AT160134) stated that she was following all the rules, and the people she trusts to protect her are not doing their job.

VI. Communications

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

A. Workload statistics for the month of October 2016.

B. Articles from the S.F. Chronicle, the S.F. Examiner, New York Times, Bloomberg, BeyondChron, Guardian UK, and SiliconBeat.

VII. Director's Report

Executive Director Collins informed to the Commissioners that the monthly workload statistics are now broken down to indicate which tenant petitions are hardship applications. Executive Director Collins reported that Supervisor Kim has requested a 2017 Board of Supervisors hearing on the subject of preventing fraudulent owner move-in evictions, and that Rent Board staff need to be present at this hearing, and that he would inform the Commissioners of the date. Executive Director Collins reported that staff member Marissa Jimenez conducted outreach at S.F. State University on October 31, that Aaron Morrison and Roger Levin conducted outreach at Sunday Streets on November 3, and that Christina Varner gave a presentation at City College of S.F.'s property management class on December 5. The Rent

Board will also present on February 25 at the Chinatown Library. Executive Director Collins reported that counselor Josh Vining has now been made permanent, and acting Deputy Director Christina Varner has now been made permanent and is now the Rent Board's Deputy Director.

VIII. Calendar Items

January 10, 2017

13 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 7:21 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.