



Rent Stabilization Board

RENT STABILIZATION BOARD
Regular Meeting Minutes
(Approved)

Maudelle Shirek Building
2134 Martin Luther King Jr. Way
Council Chambers, Second Floor
Broadcast Live on KPFB – 89.3 and BTV Cable Channel 33
Live Webcasting at www.cityofberkeley.info/rent

Monday, August 20, 2012
7:00 p.m.

1. **Roll call** – Chair Stephens called the meeting to order at 7:15 p.m.*
Aimee Mueller called roll.
Commissioners present: Blake, Dodsworth, Drake (left 9:33), Harr, Shelton, Townley, Tregub, Webster, Stephens
Commissioners absent: None
Staff present: Arreguin, Brown, Kelekian, Law, Mueller

**The start of this meeting was delayed in order to resolve technical issues with television and radio broadcasting.*

2. **Approval of Agenda** M/S/C (Townley/Tregub) APPROVE AGENDA. Voice vote.
Carried: 9-0-0-0.

3. **Public Forum** There were nine speakers:

Lawrence Buchalter – said he is “opposed to any attempt to weaken the ability of the Rent Board to be as impartial and fair-minded as it’s been to both tenants and landlords over the course...of the many years of its existence.”

Kiran Shenoy – speaking as a tenant, a candidate for the Rent Board in the upcoming election and as a community member, said he is here to support Commissioner Drake’s recommendations tonight under Action Item 5.a.(1)b. He said he hoped to see “some sort of detailed discussion on how these registration fees are actually being spent, especially in light of the fact that these registration fees could possibly help affordable housing in the City of Berkeley.”

Jay James – a Berkeley tenant and a candidate for the Rent Board, said that he was here to observe the discussion about the response to the Grand Jury report. He also said, “I think that I’m also here to support Commissioner Drake’s recommendations and hear what she has to say.”

Marc Janowitz – said that, as a former Rent Board Commissioner, he is well aware of the rigorous practices that he and fellow Commissioners followed, saying that the Board “spent countless hours collecting data, analyzing data, and using that data to make decisions that we were required by the Ordinance to make.” He said that quotations from the Grand Jury report regarding ‘allegations about improper personnel procedures, hiring that does not follow standard procedures...’ are baseless and inaccurate, given his personal experience with the Board’s rigorous hiring procedures: “We went through numerous resumes from all over the country, we had meetings, we had interviews, we chose according to the procedures of the City of Berkeley. When people are hired, the City of Berkeley has a rigorous and, some would say, overly-strict system that is followed. We followed it; we are required to follow it.”

Julia Cato – a Berkeley tenant for 37 years, said she has seen “marked improvement in the Rent Board over the years” and thinks the Board functions exactly as it was designed to function. She knows it’s hard when Boardmembers choose to vote against their heart because they have to enforce the law, but they do. She thinks the Board should be proud of its work and said, “I’m proud to support you.”

Moni T. Law – a member of SEIU Local 1021 and a Rent Board Housing Counselor, said she strongly recommended that the Board “not take any action that would circumvent my rights and other staff members’ union rights.” She said the Board “should reject outright the recommendations of the Grand jury, Recommendation 12-12 and 12-13.” She explained that Rent Board staff are currently hired, fired and/or promoted under the civil service rules and Human Resources Department regulations, not the rule of Executive Director Jay Kelekian, and not the rule of the Board. Therefore, “to enter into a review of staff composition, salaries, and work-load – which is what the recommendation of the Grand jury erroneously sets forth – is not the purview of the Board per the existing union contract” or Memorandum of Understanding. Ms. Law thanked the Board for its work.

Jeremy Wertz – ceded his time to Councilmember Jesse Arreguin.

Councilmember Jesse Arreguín – as a 10-year Berkeley tenant and a former Rent Board Commissioner and Chairperson, Councilmember Arreguin thanked the Board very much for its service to the community and for its quality services to both landlords and tenants, saying that the Board is “a very important program to protect renters from unfair rent increases and evictions, helping preserve the diversity of our city that helps to keep students, working families, seniors and the disabled in our community. He said that rent control creates stable communities and schools and “is one of Berkeley’s most important and effective affordable housing programs.” Having read the Grand Jury’s report, he finds no factual basis for many of the report’s claims or any evidence to prove impropriety in how the Rent Board is run or in the Board’s budget, fees or personnel procedures. He also noted that the City Auditor declined the request to investigate the Rent Board due to insubstantial evidence.

Marcia Levenson – said she really appreciated the totality of participation that the Rent Board received at its July 16th meeting and commended Chair Stephens for how well she conducted that meeting. She echoed a point that former Rent Board Commissioner Paul Hogarth made on July 16th saying that, as a U.C. Berkeley-trained Ph.D. geographer, she was so shocked that none of the members of the Grand Jury were from Berkeley – “we need to understand a place and its people and

its relationships in order to conduct any meaningful research there.” As a taxpayer, she was frustrated that scarce public resources were used on this completely gratuitous and mean-spirited endeavor.

Kathleen Gresher – a 35-year Berkeley rent-controlled tenant, as well as the manager of the property she and her husband lived in for 12 years. She said “the Rent Board was an invaluable partner to us as people who had to take care of... a building with 30 units that housed about 100 rent-paying people.” Describing the frequent discord that can occur when tenants and property managers/owners are both trying to look out for their own interests, she said she and her husband “have always been very impressed with the Rent Board and its ability to navigate those waters.” She feels that the Board was “worked to help out all interests involved, and to make Berkeley as safe and sane and secure as it is in terms of housing.”

4. Approval of prior meeting minutes:

- a. July 16, 2012 Regular Meeting minutes – M/S/C (Harr/Townley) APPROVE MINUTES WITH THE FOLLOWING CHANGE: FOR ITEM 7.a.(1), NOTE THAT COMMISSIONER HARR VOTED “NO” BECAUSE THE BOARD HAS YET TO APPROVE A METHOD TO MITIGATE THE IMPACT ON LOW-INCOME TENANTS, NOT BECAUSE SHE IS OPPOSED TO THE ITEM. Voice vote. Carried: 8-0-1-0. ABSTAIN: Drake.
- b. July 30, 2012 Special Meeting minutes – M/S/C (Tregub/Townley) APPROVE MINUTES WITH THE FOLLOWING CHANGE: ADD NOTATION TO EXPLAIN WHY THE START TIME OF THIS MEETING WAS DELAYED. Voice vote. Carried: 7-0-2-0. ABSTAIN: Drake, Shelton.

5. Action Items

- a. From Board Members, Executive Director and Committees
 - (1) Discussion and possible action regarding the content of the Rent Board’s formal response to the 2011-2012 Alameda County Civil Grand Jury’s Final Report
 - a. Proposed formal response to the Civil Grand Jury (Chair Stephens)

Chair Stephens gave an overview of the Grand Jury’s five recommendations and the Board’s proposed formal response to each of these; Commissioners Drake, Shelton and Tregub briefly explained their recommendations for the Board’s formal response to the Grand Jury. Following discussion, the Board took the following action:

M/S/C (Shelton/Tregub) AMEND THE BOARD’S PROPOSED RESPONSE TO THE GRAND JURY REPORT BY ADDING THE FOLLOWING LANGUAGE TO THE THIRD PARAGRAPH OF RECOMMENDATION #12-10 ON PAGE 26 AS FOLLOWS:
“Furthermore, as follow-up to staff’s discussions with the Berkeley Property Owners Association, the Board will develop and forward to the City Council options for expanding the number of units required to register and pay for services.” Roll call vote. YES: Blake,

Dodsworth, Drake, Harr, Shelton, Townley, Tregub, Webster, Stephens; NO: None; ABSTAIN: None; ABSENT: None. Carries: 9-0-0-0.

The Board then discussed several possible amendments to the wording on Page 1 as well as the responses to Recommendations 12-12 and 12-13. It was agreed that, before any language could be finalized, staff would first need to verify what wording is permissible under the guidelines for formal responses to Grand Jury recommendations. Once this is determined, the Chair will make every effort to amend the Board's formal response by crafting language that conveys, to the extent possible, the suggestions made below.

M/S/C (Townley/Harr) APPROVE THE PROPOSED FORMAL RESPONSE TO THE CIVIL GRAND JURY, INCLUSIVE OF THE AMENDMENT JUST ADOPTED, AND FURTHER AMEND THE BOARD'S PROPOSED RESPONSE TO THE GRAND JURY AS FOLLOWS: in the first paragraph on Page 27, add the word "while" to the beginning of the first sentence and take language from the last paragraph on the same page so that the first paragraph reads, "While we disagree that the Human Resources Department is equipped to do this, the Rent Board will consider contracting with an outside consultant with the necessary expertise or with another comparable rent stabilization program to do a peer review of our agency. This can be a valuable process. Berkeley Rent Board staff carried out a peer review of and provided professional assistance to the City of East Palo Alto to help them rebuild their program several years ago, all of which was reimbursed on an hourly basis by that City."

Commissioner Harr then suggested the following alternate language for consideration: "We disagree with Recommendation 12-12 because determining the appropriate level of staffing to carry out the Rent Board's mission would require some expertise in what is needed to administer a rent stabilization program. While we disagree that the Human Resources Department is equipped to do this, the Rent Board will consider contracting with an outside consultant with the necessary expertise or with another comparable rent stabilization program to do a peer review of our agency. This can be a valuable process. Berkeley Rent Board staff carried out a peer review of and provided professional assistance to the City of East Palo Alto to help them rebuild their program several years ago, all of which was reimbursed on an hourly basis by that City."

Friendly amendment by Tregub: AMEND THE FIRST PARAGRAPH OF THE BOARD'S RESPONSE ON PAGE 28 BY ADDING A SENTENCE AT THE BEGINNING OF THE PARAGRAPH THAT CONVEYS THAT THERE ARE THREE SEPARATE PARTS OR COMPONENTS TO OUR RESPONSE TO THIS RECOMMENDATION SO THAT THE BOARD CAN SEPARATELY ADDRESS EACH PART OF RECOMMENDATION 12-13.

This friendly amendment was accepted with no objections.

Friendly amendment by Blake: AMEND THE THIRD PARAGRAPH ON PAGE 1 OF THE RESPONSE AS FOLLOWS: Remove the words "very fact that the" (in the ninth line) and insert the word "itself" after the word "mission" so that the sentence reads, "It is evident that the Civil Grand Jury disagrees with Berkeley Rent Board policies arguing that the Board's faithful implementation of the ordinance's mission itself demonstrates a lack of 'effective oversight and accountability.'" **This friendly amendment was accepted with no objections.**

Roll call vote. YES: Blake, Dodsworth, Harr, Shelton, Townley, Tregub, Webster, Stephens; NO: Drake; ABSTAIN: None; ABSENT: None. Carried: 8-1-0-0.

- b. Comments/recommendation from Commissioner Drake
 - c. Comments/recommendation from Commissioner Harr
 - d. Comments/recommendation from Commissioner Shelton
 - e. Comments/recommendation from Commissioner Tregub
 - f. Comments/recommendation from Commissioner Webster
 - g. June 25, 2012 Press Release and Rent Board Chair's Preliminary Response to Civil Grand Jury Report (Chair Stephens)
 - h. Pages 63-74 of the 2011-2012 Alameda County Civil Grand Jury Final Report on the Berkeley Rent Stabilization Board (Chair Stephens)
 - i. June 28, 2011 letter from the Berkeley Property Owners Association to City Auditor regarding the Berkeley Rent Stabilization Board (Chair Stephens)
 - j. May 14, 2012 report titled, "Rent Stabilization and Eviction for Good Cause in the 21st Century" (Executive Director)
 - k. July 12, 2012 e-mail communication from SEIU Local 1021 President Roxanne Sanchez in response to the Grand Jury Report concerning the Berkeley Rent Board (Executive Director)
- (2) Discussion and possible action regarding the scheduling of a Special Meeting of the Rent Board in September 2012 (Executive Director)

After discussion of Commissioners' availability, the Board chose to schedule a Special Meeting for Monday, September 24, 2012 at 7:00 p.m. It was agreed that this meeting would not be published until the meeting location could be confirmed. NO VOTE.

- (3) Discussion and possible action to adopt a resolution amending the Rent Board's current Records Retention Schedule in compliance with the City's Records Management Program (Executive Director)

M/S/C (Blake/Townley) ADOPT THE PROPOSED RESOLUTION AS WRITTEN.
Voice vote. Carried: 9-0-0-0.

6. Information and Announcements

Please Note: The Board may move Information Items to the Action Calendar.

a. Reports from Board Members/Staff

- (1) Soft Story Inventory and Reinvestment Report (Executive Director)

- (2) August 13, 2012 Beyond Chron article by Randy Shaw titled, “San Francisco’s Uninformed Civil Grand Jury Strikes Again” (Executive Director)
- (3) August 12, 2012 Daily Cal article by Alyssa Neumann titled, “Web application helps residents identify Berkeley’s seismically unsound buildings” (Executive Director)
- (4) August 1, 2012 Wall Street Journal article by Bobby White titled, “Rental Board Under Fire in Berkeley” (Chair Stephens)
- (5) July 25, 2012 San Jose Mercury News article by Bonnie Eslinger titled, “Hundreds of pre-eviction notices sent to East Palo Alto tenants by new landlord” (Executive Director)

b. Updates and Announcements regarding Committee/Board Meetings

- (1) Budget and Personnel – Committee Chair Tregub announced that the Committee would be meeting on August 21st at 5:00 p.m.
 - a. August 21st agenda
- (2) Outreach – Committee Chair Webster updated the Board on the Committee’s recent work.
 - a. August 17th agenda
- (3) IRA/AGA and Habitability – Committee Chair Stephens said the Committee has not met due to needing to devote time to responding to the Grand Jury; this Committee chose not to establish a regular meeting time because the Committee’s work is variable.
- (4) Eviction/Section 8/Foreclosure – Committee Chair Harr said the Committee hopes to meet soon and that the main agenda item will be solidifying the Committee’s Workplan.
 - a. June 27th minutes
- (5) Safe & Sustainable Housing – Committee Chair Townley said the Committee will be meeting on August 28th at 5:15 p.m.
- (6) Waivers Committee – Committee Chair Dodsworth updated the Board on the Committee’s recent progress.
 - a. July 11th minutes
 - b. August 14th agenda
- (7) Ad Hoc Committee on Smoke-Free Housing – Committee Chair Blake updated the Board on the issues surrounding the cancelling of their last meeting and efforts to schedule the next meeting.
- (8) 4 x 4 City Council/RSB Housing Committee – Chair Stephens says this Committee has not met since February but she hopes they will meet soon.

(9) Future Special Meetings – Discussed earlier in Item 5.a.(2).

- c. Discussion of items for possible placement on future agenda – Commissioner Townley said he would like to see a copy of the letter Commissioner Tregub had proposed that staff send to U.C. Berkeley regarding student housing, and a report about remote access to hearings.

Chair Stephens noted for the record that Commissioner Drake left at 9:30 p.m. before the Board had discussed any of the Information Items.

7. **Adjournment** M/S/C (Harr/Townley) ADJOURN MEETING AT 10:03 P.M. Voice vote.
Carried: 7-0-0-2. ABSENT: Blake, Drake.