



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](http://www.cityofberkeley.info/rent)

**Monday, July 16, 2012**  
**7:00 p.m.**

1. **Roll call** – Chair Stephens called the meeting to order at 7:12 p.m.  
Aimee Mueller called roll.  
*Commissioners present:* Blake, Dodsworth, Drake, Harr, Shelton, Townley, Tregub, Webster, Stephens  
*Commissioners absent:* None  
*Staff present:* Barton, Brown, Bursell, Kelekian, Law, Mueller, Thomas
2. **Approval of Agenda** M/S/C (Tregub/Harr) APPROVE AGENDA WITH THE FOLLOWING CHANGE: FOR ITEM 8.a.(1)a., ADD A NOTATION INDICATING THAT COMMISSIONER DRAKE ALSO REQUESTED THIS ITEM BE ON THE AGENDA. Voice vote. Carried: 9-0-0-0.
3. **Public Forum** – There were 34 speakers.

**Don Teeter** – a long-time Berkeley tenant (24 years), said he experienced threats and harassment when a new owner took over the property a few years ago. He felt that the Rent Board hearing examiner “bent over backwards” to see the owner’s side of the story.

**Jim Smith** – has been fighting the battle against rent control as a 25-year Board member of the Berkeley Property Owners Association. He claimed that vacancy decontrol “gave birth” to “class discrimination” against landlords in Berkeley. He feels this discrimination against landlords is beyond the discrimination felt by Blacks in the South before the Civil Rights Movement.

**Marc Janowitz** – an attorney and two-term former Rent Board member, said he felt the lack of analysis, understanding and appreciation of democracy shown by the Grand Jury was “appalling.” He testified to the fact that, with the knowledge that the Board was always subject to scrutiny and potential litigation by the Berkeley Property Owners Association if the Board ever overstepped its bounds, at every step in the hiring process the Board followed the laws and rules of the City of Berkeley. He also reiterated the fact that the

Rent Board has an extensive Committee process and procedures to ensure input from the public before decisions are made.

**Marcia Poole** – long-term Berkeley Tenant who lives in the historic “Obata Studio” building. Several years ago when all the tenants in her building faced a demolition eviction, she came to the Rent Board for assistance. The Rent Board staff provided a referral and began a Rent Board mediation process that took more than 100 hours. The process was successful with both sides getting what they needed. “We were able to emerge as friends because of the process that was negotiated through the Rent Board.”

**Louis Cuneo** – also a long-term tenant at the Obata Building. Stated that people continue to need to be protected and the Rent Board service should be there for the rest of the city.

**Don Murphy** – also a long-term tenant at the Obata Building. Discussed the mediation process used in his case and praised the mediators, saying “It worked”. Believes the Rent Board resources were very important and felt bad about “the awful report about the Board.” He “hopes it is not a political kind of statement.”

**Eric Kawakami** – ceded his time to Sid Lakireddy.

**Sid Lakireddy** – speaking as President of the Berkeley Property Owners Association (BPOA). Denied that the BPOA filed a complaint with the Grand Jury. The report is a report to the Board (not staff) and the Board needs to provide the oversight of the staff. Stated that staff issued a report filled with inaccuracies the day the Grand Jury report was issued. Urges the Board to focus on the recommendations of the Grand Jury believing that most should be non-controversial. Believes the staff (sic) assertion that most of the Registration fee is passed through is “nonsense” and fee pass-throughs should be automatic in the second year of tenancy after a unit has been decontrolled. Felt the Board charged more than other rent control programs and wants the Board to respond to his assertion that the fees would be lower if tenants were paying them.

**John T. Selawsky** – 25-year Berkeley resident and current President of the Berkeley School Board, thanked the Board for the important work they do. He said the Ordinance and Program have a stabilizing effect on the community – allowing young families, the elderly and moderate income residents to stay in Berkeley with some security, thereby building a stable community. After reading the Grand Jury’s report and the Chair’s initial response, believes the report “profoundly misunderstands” the work done by the Board. The Board exists to oversee and enforce the Ordinance, which they do well and fairly.

**Larry Buchalter** – has served on the screening committee to select candidates to run for the Board and all candidates are evaluated for fairness and balance. In the meetings he has attended the landlord wins when they are right. Feels the arguments made by critics are distorted, unfounded and unfair and encourages the Board to remain fair and unbiased.

**Olga Bolotina** – Executive Committee member of the Sierra Club, speaking in her personal capacity. Thanked the Board for all their work on behalf of the environment as it is a service to the community. Was specifically thankful for the Board’s work on legislation recently signed by Governor Brown requiring mandatory recycling in apartments.

**Declan Walsh** – A UC Berkeley undergraduate. Believes the Board carries out their work with care and consideration. Stated the Rent Ordinance helps mitigate the inherent power imbalance between those who pay rent and those who collect it. Pointed out that those asking for the registration fees to be lowered while also paying property taxes at a rate that has not kept up with current market values want to eat their cake and then take a bite out of their neighbor’s cake.

**Jeremy** (no last name provided) – A UC Berkeley undergraduate student. Discussed stability afforded by Berkeley’s active enforcement system compared to Los Angeles’ passive enforcement system. Gave the example of a friend, of similar economic means, who went to UCLA and has moved several times (now living 30 miles away from campus) because he was never informed about his rights. Jeremy has had a much more stable housing situation because he received early and regular notice from the Board.

**Matt Calvert** – A UC Berkeley student thanked the Board for their proactive outreach efforts and explained that it was through a Board mailing that he learned about soft story buildings and that he was living in one. He moved to a safer building at a cheaper rent thanks to our information.

**John Nguyen** – A Berkeley tenant who appreciates the help he has received from the Program over the years. Feels the Grand Jury report is very distorted and damaging. Feels there is too much landlord versus tenant mentality and hopes there can be greater cooperation.

**Sam Cohen** (aka Fat Dog) – has been a landlord in Berkeley before the rent control ordinance was adopted. Supports rent control because it allows long-term residents some security rather than being displaced by other tenants (out of town students of privilege) able to pay greater rent. Testified that the Rent Board has been very kind in reviewing his cases and has forgiven penalties for late registration.

**Eduard Meleshinsky** – A UC Berkeley Law student. Rent control in Berkeley is a Godsend. He is on a strict budget (tied to financial aid) and rent control gives him security while providing the owner a profit. The Board bends over backward to see the landlord’s point of view and is not antagonistic.

**Rick Lewis** – a small landlord of a building owned by his family since the early 1970’s. Supports rent control because it creates a balance in security – both for the landlord and the tenant. Testified that two years ago he invested \$80,000 for seismic work on the building and was able to file a petition at the Rent Board which, after review, was granted and the cost of the work passed through. He appreciates the work of the Rent Board.

**Kathy Labriola** – Berkeley resident for more than 30 years. Discussed “skyrocketing” rental rates before rent control and thanked the Board (and God) for rent control.

**Chris Gian** – A UC Berkeley student. Has been very happy with the Rent Board’s efforts in the two years he has lived in Berkeley. No two rent control programs are alike and Berkeley does many good things that make “a good living space for me and my fellow students”.

**Jonathan Wang** – A UC Berkeley student. In the three years he has been in Berkeley, the only information he received concerning his rights was from the Rent Board. Specifically, an informational mailing from the Rent Board led to the return of interest on his security deposit. This speaks to the “Board’s benifocial, active enforcement and engagement with the community.”

**Paul Hogarth** – Former Rent Board Commissioner. Feels the Grand Jury report was politically charged. Feels the Grand Jury is not representative of the County demographically. Noted that nobody from Berkeley was on the Grand Jury. This led to the Grand Jury not understanding the work of the Board. Stated his support for the Executive Director and good work of Program. Indicated he was not surprised the BPOA was out tonight opposing the Board they have opposed the Board since 1980. and pointed out that the BPOA was out opposing the Board from the first meeting in June 1980. Discussed how with vacancy decontrol owners have a greater incentive to attempt to evict tenants and thus the Board’s services are needed even more.

**Lee Trampleasure** – third generation Berkeleyan. Praised the work of the Board and staff. During his years as a tenant has had many landlords and most have been great. Most tenants he has known have been great too. Gave an example of a young single father who purchased a unit for his family based upon incorrect advice by the realtor. While the tenant had no obligation to move, they did so voluntarily but easily could have kept the new owner out of the unit for several months. Believes that if the owner had gone to the Rent Board, they would have understood the law better and been able to better evaluate and prepare for the risks. The Rent Board administers the law including “telling owners how to dot the i’s and cross the t’s”.

**Alejandro Soto-Vigil** – Thanked the Rent Board for providing a necessary service to landlords and tenants. Believes the Grand Jury report ignored or misstated 16 fact resulting in a biased report.

**David Arnold** – BPOA member. Does not challenge that “the Rent Board performs a useful and necessary social function” and that often things appear one way and turn out another. Wants an explanation why Berkeley’s registration fee is so much higher than LA, SF, and Oakland. That is his concern and what he is looking for from the Board.

**Councilmember Kriss Worthington** – Berkeley City Councilmember, has spent thousands of hours working to create affordable housing policies. Rent stabilization is the single largest affordable housing program in the City of Berkeley and that the staff and management of the program have been incredible partners with the City, including the responses to recent fires. While he believes the Director is doing a good job, he believes that the recommendation for the Board to perform annual evaluations is a good one that should be heeded.

**Francine & Christine Leonard** – Francine Leonard speaking was accompanied by her 80 year old mother, Christine. Recently resettled in Berkeley because she could not afford an apartment herself. The family depends on the income from the apartment building owned by Christine and Francine has been angry at the terrible things the tenants do. Was frustrated when she went into the Board and there was inadequate literature about dealing with Section 8 people. Believes the Section 8 tenants in the building are con artists and feels there should be “one checking system for people getting funding”.

**Linda Lonay** – a small landlord in Berkeley. Does not believe other speakers have read the Grand Jury report. Wonders if it is more appropriate for the City Council to respond to the report than the Board. Nobody disputes the benefits of rent control but believes the report is critical of the current administration/direction of the Board, particularly budget considerations. The registration fee is really steep and when she calls the rent board for help she doesn’t get any. There are too many people working at the Board. Attorneys should be replaced with paralegals. Staff’s pensions are too high and a burden on taxpayers.

**Marcia Levenson** – ceded her time to Moni T. Law.

**Moni T. Law** – Rent Board Housing Counselor speaking as a private Berkeley resident. Discussed her background, training and qualifications. Believes the Grand Jury report was filled with loose and reckless allegations which lack foundation. She was hired through an objective process that included being screened by the HR department. Prides herself on giving professional, unbiased service to landlords, tenants and realtors. Discussed her job responsibilities generally and then described each case she worked on that day. Most of the assistance was provided to owners rather than tenants. Rent Board staff is not bloated and the classifications used are proper. Salaries are set by the city through collective bargaining with the Unions.

**Linda Olivenbaum** – ceded her time to Council member Maxwell Anderson.

**Council member Maxwell Anderson** – City Councilmember and former Rent Board Chair. Discussed what it was like for renters in a non-rent controlled city (Germantown part of Philadelphia) – much more intimidating and confrontational. The BPOA has been opposed to the Ordinance from the beginning and remains so, and maximization of profit is guiding their analysis about the fairness of the Board. The BPOA has put measure on the ballot over the past 30 years to undermine the Ordinance and they have failed. They then took their resources to Sacramento undermine the ordinance at the state level (with the passage of Costa Hawkins). Now, their talking points are reflected in the report of the Grand Jury. Berkeley has made a conscious choice to not follow the path of Palo Alto and the work of the Board vindicates that choice.

**JoAnn Driscoll** – Berkeley resident since 1992 and Berkeley landlord for the past ten years. Thanked the Board for their service to the Citizens of Berkeley. Has used Rent Board services on two occasions and been very satisfied with the service she received. We live in a sad time where people don't trust their institutions. The Grand Jury report is very serious and the Board needs to approach it seriously. The Board should consider a fiscal and/or administrative review to show the citizens they are doing their job.

**Kelly Jewett** – UC Berkeley student. Thanked the Board for all their hard work. Had a great landlord, who passed away and for the past nine months has had a very troublesome owner who has tried to raise the rent by \$300. Between the counseling and subsequent hearing has cost way more than the \$194. The Rent Board fee is well worth the protection and assistance provided.

**Moshe Sarig** – Berkeley Landlord. Believes the issue of rent control should be nothing more than philosophical. The discussion should be left in Berkeley. Why is only one industry (housing) controlled? Why not food in restaurants? Why not supermarkets or clothing? Why not gas and other utilities? Why only property owners. Believes the Board is out of control.

**Audrey Caravas** – Berkeley tenant and graduate student. Feels she hears both sides and doesn't think it is about good guys and villains. People have a right to live that is safe and owners have a right to profit. As a graduate student on a fixed budget needs the security of rent stabilization and the work of the Board is important and she is grateful.

**Sissy Pradier** – Transgendered person living in Berkeley. Appreciates the Board and the information received. Wants the Board to make transgendered tenants a priority because they are particularly vulnerable to harassment and discrimination.

*The Board then took Item 6. out of order in consideration of the hour and parties present for the Appeal.*

**6. Appeal Time Certain – 8:15 p.m.**

**Appeal T-5151 (2922 Otis Street, Unit B)**

*Parties present for appeal: Cassandra Garner (Appellant and Respondent) and Chien-Yi Huang (Respondent and Appellant)*

**Substitute motion:** M/S/F (Townley/Drake) UPHOLD THE HEARING EXAMINER'S DECISION WITH THE EXCEPTION OF THE AWARD FOR THE SIX ITEMS THAT WERE NOT INCLUDED IN THE ORIGINAL COMPLIANCE DECISION. Roll call vote. YES: Drake, Townley; NO: Blake, Dodsworth, Harr, Shelton, Tregub, Webster, Stephens; ABSTAIN: None; ABSENT: None. Fails: 2-7-0-0.

**Main motion:** M/S/C (Blake/Tregub) ADJUST THE HEARING EXAMINER'S DECISION TO REFLECT AN ADDITIONAL ONE PERCENT REDUCTION FOR THE SMALLER KITCHEN CABINET SPACE AND CUTTING BOARD FOR THE PERIOD FROM FEBRUARY 8 – SEPTEMBER 3, 2011. Roll call vote. YES: Blake, Dodsworth, Harr, Shelton, Tregub, Webster, Stephens; NO: Drake, Townley; ABSTAIN: None; ABSENT: None. Carried: 7-2-0-0.

**4. Approval of prior meeting minutes:**

- a. May 14, 2012 Special Meeting minutes – M/S/C (Townley/Shelton) APPROVE MINUTES AS WRITTEN. Voice vote. Carried: 9-0-0-0.
- b. June 18, 2012 Regular Meeting minutes – M/S/C (Drake/Tregub) APPROVE MINUTES AS WRITTEN. Voice vote. Carried: 9-0-0-0.

*Due to the length of Public Comment, the presentations for Item 5.a., 5.b. and 5.d were postponed to a future meeting.*

**5. Special Presentations/Reports:** (held over from previous meetings)

- a. **Rent Stabilization, Vacancy Decontrol and Reinvestment in Rental Property in Berkeley** (Deputy Director Stephen Barton and Rent Board Assistant Planner Lief Bursell)
- b. **Customer Service Survey of Berkeley Rental Property Owners and Managers** (Deputy Director Barton)
- c. **February 8, 2012 Foreclosure Report to the Eviction/Section 8/Foreclosure Committee** (Commissioner Harr)
- d. **Report on the Rent Board's role in the Berkeley Housing Authority Public Housing Conversion** (Deputy Director Barton)

*The Board agreed to take Item 7.a.(3) out of order.*

**7. Action Items**

- a. From Board Members, Executive Director and Committees
  - (3) Discussion and possible action regarding the option to hold a Special Meeting of the Rent Board in the event that the Board is unable to complete the agenda for the Monday, July 16, 2012 Regular Meeting by 10:30 p.m. (Commissioners Harr, Shelton, Townley and Tregub)

M/S/C (Shelton/Harr) HOLD A SPECIAL MEETING OF THE RENT BOARD ON JULY 30, 2012 AT 7:00 P.M. Voice vote. Carried: 9-0-0-0.

*It is noted that Commission Dodsworth and Commissioner Drake stated for the record that they would not be able to attend a Special Meeting on July 30, 2012.*

***Item 5.c. was then taken out of order.***

**5.c. February 8, 2012 Foreclosure Report to the Eviction/Section 8/Foreclosure Committee**  
This item was discussed but no action was taken.

- (1) Second reading of proposed Regulation 1282: Individual Rent Adjustments for Units in Properties Where No Units Have Received a Vacancy Increase (IRA/AGA/Habitability Committee and Executive Director)

M/S/C (Tregub/Townley) ADOPT PROPOSED REGULATION 1282 ON SECOND READING. Voice vote. Carried: 8-1-0-0. NO: Harr.\*

*\*Commissioner Harr stated for the record that she voted "No" on this item because the Board has yet to approve a method to mitigate the impact on low-income tenants, not because she is opposed to this Regulation.*

- (2) First reading of proposed changes to Regulation 884 (B): To Use an Owner's Compliance with the City's Soft Story Ordinance as a Criterion for Discretionary Review of Waiver Requests (Waivers Committee and Executive Director)

M/S/C (Drake/Tregub) ADOPT PROPOSED CHANGES TO REGULATION 884(B) ON FIRST READING. Roll call vote. YES: Dodsworth, Drake, Harr, Shelton, Townley, Tregub, Webster, Stephens; NO: None; ABSTAIN: Blake; ABSENT: None. Carries: 8-0-1-0.

- (4) Proposal to approve staff recommendation on the following requests for waiver of late registration penalties (Executive Director)

**Ministerial Waivers**

<u>Waiver No.</u>	<u>Property Address</u>
4140	1606 Tyler Street
4142	2634 Etna Street
4143	2636 Fulton Street
4144	2531 Ridge Road
4145	1446 Martin Luther King Jr. Way

**Discretionary Waivers**

<u>Waiver No.</u>	<u>Property Address</u>
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4134 1939 Francisco Street (*held over from May 21<sup>st</sup> meeting*)

M/S/C (Harr/Townley) APPROVE THE STAFF RECOMMENDATION FOR ALL MINISTERIAL AND DISCRETIONARY WAIVERS. Voice vote. Carried: 9-0-0-0.

## 8. Information and Announcements

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

### a. Reports from Board Members/Staff

- (1) Documents related to the 2011-2012 Alameda County Grand Jury report regarding the Berkeley Rent Stabilization Board:
  - a. June 25, 2012 Press Release and Rent Board Chair's Preliminary Response to Civil Grand Jury Report (Chair Stephens)
  - b. Pages 63-74 of the 2011-2012 Alameda County Civil Grand Jury Final Report on the Berkeley Rent Stabilization Board (Chair Stephens)
  - c. June 28, 2011 letter from the Berkeley Property Owners Association to City Auditor regarding the Berkeley Rent Stabilization Board (Chair Stephens)
  - d. May 14, 2012 report titled, "Rent Stabilization and Eviction for Good Cause in the 21<sup>st</sup> Century" (Executive Director)
  - e. 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)

The Board discussed Item 8.a.(1)a.-e. above and Chair Stephens asked that Commissioners forward her any comments or feedback they may have regarding the Board's formal response to the Grand Jury, prior to the August 20, 2012 meeting.

The Board then agreed to table the remaining Information Items until the next meeting and discussed which reports they wanted to be reprinted for the next agenda packet. So, the following items were not discussed.

- (2) Updated Commissioner Attendance Records for all Board and Committee Meetings through June 2012 (Executive Director)
- (3) Update on RTS database project (Executive Director) –
- (4) July 13, 2012 e-mail from property manager William Nasser expressing his gratitude for the valuable service provided by Rent Board staff members Nick Traylor and Moni Law (Executive Director)

- (5) July 11, 2012 report titled, “Findings and Recommendations from the April 11, 2012 Seismic Day of Compliance” (Commissioner Tregub)
- (6) July 10, 2012 City Council item titled, “Amendment to Soft Story Ordinance” (Executive Director)
- (7) Update on Board referral to staff and IRA/AGA/Habitability Committee regarding public speaker on profitability (Executive Director) – *Verbal*
- (8) Market Medians report for the 1<sup>st</sup> Quarter of 2012 (Executive Director)
- (9) June 6, 2012 East Bay Express article titled, “Renting: It’s Not For The Dogs” (Commissioner Harr)

b. Updates and Announcements regarding Committee/Board Meetings

- (1) Budget and Personnel
- (2) Outreach
  - a. June 1<sup>st</sup> minutes
  - b. June 29<sup>th</sup> agenda
- (3) IRA/AGA and Habitability
- (4) Eviction/Section 8/Foreclosure
  - a. May 17<sup>th</sup> minutes
  - b. June 27<sup>th</sup> agenda
- (5) Safe & Sustainable Housing
- (6) Waivers Committee
  - a. April 20<sup>th</sup> revised minutes
  - b. July 11<sup>th</sup> agenda
- (7) Ad Hoc Committee on Smoke-Free Housing
- (8) 4 x 4 City Council/RSB Housing Committee
- (9) Future Special Meetings

c. Discussion of items for possible placement on future agenda

9. **Adjournment** M/S/C (Tregub/Townley) MEETING WAS ADJOURNED AT 10:58 P.M. Voice vote. Carried: 9-0-0-0.