



Rent Stabilization Board

RENT STABILIZATION BOARD

Special 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

**Thursday, November 20, 2014
7:00 p.m.**

1. **Roll call** – Chair Stephens called the meeting to order at 7:21 p.m.**
Aimee Mueller called roll.
Commissioners present: Blake (arrived 7:28), Dodsworth (arrived 7:24), Harr, Hunt, Shelton, Soto-Vigil, Townley (left 9:44), Webster, Stephens
Commissioners absent: None
Staff present: Brown, Kelekian, Mueller, Siegel

***Meeting start was delayed to allow time to resolve a technical difficulty that would have prevented a live radio broadcast of the proceedings.*
2. **Approval of Agenda** M/S/C (Townley/Harr) APPROVE AGENDA WITH TWO CHANGES: HOLD OVER WAIVER NO. 4427 AND TAKE UP ITEM 6.a.(1) (Regulation 1018) IMMEDIATELY AFTER PUBLIC FORUM. Voice vote. Carried: 8-0-0-1. ABSENT: Blake.
3. **Public Forum** – There were six speakers: Kathy Snowden asked three questions about actions taken at the November 17th Board meeting; Jeff Jones spoke about Regulation 1018; four additional speakers (Michael St. John, Jean Wong, “Anonymous Speaker” and Marc Janowitz) discussed Regulation 524/525.
4. **Comments from Outgoing Board Members** – Commissioners Blake, Webster and Chairperson Stephens each spoke eloquently about their time with the Rent Board and graciously thanked staff, fellow Board members and the public for allowing them to serve the community for the past eight years.
5. **Appeal** – 7:30 p.m.

Appeal L-4130 (3158 College Avenue, #3)

Parties present: Mario Nimmicht, Yvonne Medina and two children (Appellants), Johnny Wu, Monica Wu (Respondents) and Gerard Lam (on behalf of Respondents).

Main Motion (including friendly amendment by Harr): M/S/C (Webster/ Harr) THE DECISION OF THE HEARING EXAMINER IS AFFIRMED IN PART AND MODIFIED IN PART. MS. MEDINA AND HER CHILDREN WERE LICENSEES AT THE TIME THE PETITION WAS FILED AND WILL BE SUB-TENANTS UPON WHOM THE LANDLORD MAY INSTITUTE A PROPERLY-NOTICED RENT CEILING INCREASE PURSUANT TO REGULATION 1270(B)(1) IF THEY ARE STILL OCCUPYING THE UNIT ON JANUARY 1, 2015. FURTHER, THAT IT IS NOT THE INTENT OF THIS BOARD TO SET ANY KIND OF A PRECEDENT AS FAR AS HOW LONG IT TAKES FOR A LICENSEE TO STOP BEING A LICENSEE AND THAT IT IS RATHER OUR INTENT THAT, BECAUSE ALL OF THESE CASES ARE FACT-SPECIFIC, THAT A HEARING EXAMINER SHOULD ALWAYS MAKE THEIR DECISION BASED ON THE TOTALITY OF THE EVIDENCE. Roll call vote. YES: Blake, Harr, Hunt, Townley, Webster, Stephens; NO: Dodsworth, Soto-Vigil; ABSTAIN: Shelton; ABSENT: None. Carried : 6-2-1-0.

Substitute Motion: M/S/F (Soto-Vigil/ Dodsworth) TO ADOPT LEGAL STAFF'S RECOMMENDATION WITH THE FOLLOWING MODIFICATIONS: THAT MS. MEDINA MAY RECEIVE NOTICE FOR A 10% INCREASE EFFECTIVE DECEMBER 2014. NOTICE FOR HER CHILDREN WILL NOT BE EFFECTIVE UNTIL JULY 2015. LANGUAGE INCLUDED IN THE STAFF REPORT THAT THIS DECISION SHALL NOT BE PRECEDENTIAL SHOULD ALSO BE PART OF THE BOARD'S RULING. Roll call vote. YES: Dodsworth, Hunt, Soto-Vigil, Townley; NO: Blake, Harr, Shelton, Webster, Stephens; ABSTAIN: None; ABSENT: None. FAILED : 4-5-0-0.

Substitute Motion: M/S/F (Dodsworth/Soto-Vigil) TO REMAND TO THE HEARING EXAMINER FOR ADDITIONAL CONSIDERATION AND ANALYSIS. Roll call vote. YES: Dodsworth, Shelton, Soto-Vigil; NO: Blake, Harr, Hunt, Townley, Webster, Stephens; ABSTAIN: None; ABSENT: None. FAILED : 3-6-0-0.

6. Action Items

a. From Board Members, Executive Director and Committees

This item was heard immediately after the Public Forum per an earlier vote on the agenda.

- (1) Recommendation to amend Regulation 1018 [Initial Rent Determinations] – Second Reading (IRA/AGA/Habitability Committee)

Seven speakers – Richard Genirberg, Pam, John Fogarty, Sid Lakireddy, Nancy Freidberg, Michael St. John and Peter Liederman – addressed the Board on the proposed changes to Regulation 1018.

M/S/C (Townley/Blake) ADOPT PROPOSED AMENDMENTS TO REGULATION 1018 ON SECOND READING. Roll call vote. YES: Blake, Dodsworth, Harr, Soto-Vigil,

Shelton, Townley, Webster, Stephens; NO: Hunt; ABSTAIN: None; ABSENT: None.
Carried : 8-1-0-0.

- (2) Discussion and recommendation to adopt Resolution 14-15 clarifying the purpose and application of Regulation 524 [Tenant in Occupancy] and Regulation 525 [Procedure for Challenging Tenant in Occupancy Status] (Executive Director & IRA/AGA/Habitability Committee)

This item was not discussed having been resolved at the November 17th meeting.

- (3) Discussion and recommendation to adopt proposed revisions to the Rent Board Meeting Procedures (Budget & Personnel Committee)

M/S/C (Blake/Webster) TO ADOPT PROPOSED BOARD MEETING PROCEDURES AS PRESENTED WITH THE FOLLOWING CHANGES:

1. The unnecessary “s” in the last sentence of 2.i. – Motion to call the question be dropped so the sentence reads: “A motion to call the question requires a two-thirds vote of those Board members present and voting.”
2. Item 12 under Debate and Voting shall now read “Abstention from vote. A Board member may abstain from voting on any issue for any reason and should state his or her reason for abstaining. Abstentions do not change the number of votes required for a motion to pass.”
3. Item 13 under Debate and Voting shall now read “Not participating –recusals. A Board member who has disqualified (recused) himself or herself pursuant to the Political Reform Act of 1974 because of any financial interest may not participate in the discussion or the vote, or attempt to influence the vote in any way. Commissioners are expected to be familiar with Berkeley’s Conflict of Interest Code and the Political Reform Act of 1974, and are encouraged to discuss any potential conflict with the staff attorney prior to the meeting.”

Roll call vote. YES: Blake, Harr, Hunt, Soto-Vigil, Webster, Stephens; NO: None; ABSTAIN: Dodsworth; ABSENT: Shelton, Townley. Carried : 6-0-1-2.

- (4) Discussion and recommendation to adopt proposed revisions to the Rent Board Compensation Policy (Resolution 11-20) (Budget & Personnel Committee)

M/S/C (Blake/Shelton) TO CLOSE DEBATE ON THE ITEM. Roll call vote. YES: Blake, Harr, Hunt, Shelton, Webster, Stephens; NO: Dodsworth, Soto-Vigil; ABSTAIN: None; ABSENT: Townley. Carried : 6-2-0-1.

M/S/C (Blake/Harr) TO ADOPT PROPOSED REVISIONS TO THE RENT BOARD COMPENSATION POLICIES AS PRESENTED. Roll call vote. YES: Blake, Harr, Hunt, Shelton, Webster, Stephens; NO: Dodsworth, Soto-Vigil; ABSTAIN: None; ABSENT: Townley. Carried : 6-2-0-1.

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

Administrative Waiver

<u>Waiver No.</u>	<u>Property Address</u>
4358	1629 Stuart Street, #B

Ministerial Waivers

<u>Waiver No.</u>	<u>Property Address</u>
4419	2330 McGee Avenue
4421	2023 Parker Street
4424	2618 College Avenue
4425	2433 San Pablo Avenue
4427	2929 Harper Street

Discretionary Waivers

<u>Waiver No.</u>	<u>Property Address</u>
4422	1629 Walnut Street
4429	2219 Jefferson Avenue
4430	1300 Monterey Avenue

M/S/C (Shelton/Blake) TO APPROVE ALL MINISTERIAL WAIVERS AS SUBMITTED EXCEPT FOR WAIVER NO. 4427 WHICH WAS HELD OVER BY AN EARLIER VOTE ON APPROVAL OF AGENDA. Roll call vote. YES: Blake, Dodsworth, Harr, Hunt, Shelton, Soto-Vigil, Webster, Stephens; NO: None; ABSTAIN: None; ABSENT: Townley. Carried : 8-0-0-1.

M/S/C (Hunt/Webster) TO APPROVE THE STAFF RECOMMENDATION FOR ALL DISCRETIONARY WAIVERS. Roll call vote. YES: Blake, Dodsworth, Harr, Hunt, Shelton, Soto-Vigil, Webster, Stephens; NO: None; ABSTAIN: None; ABSENT: Townley. Carried : 8-0-0-1.

7. Information and Announcements

At 10:45, the Board agreed to skip the Information and Announcements and the Chair announced that pursuant to California Government Code section 54957(b), the Board would convene in closed session to discuss the employee performance evaluation for the Executive Director.

a. Reports from Board Members/Staff

- (1) Update on the legality of the Board entering into a Joint Powers Agreement with the City of Richmond to implement the Richmond CARES™ program in Berkeley (Executive Director)

- (2) Annual General Adjustment (AGA) mailing to Owners and Tenants (Executive Director)
- (3) November 13, 2014 Soft Story Program Update by the Planning Department's Building and Safety Division (Executive Director)
- (4) City of Oakland's recently adopted Ordinance Prohibiting Various Harassing Behaviors by Landlords Against Tenants and Providing Civil Remedies for Violations (Executive Director)

b. Updates and Announcements regarding Committee/Board Meetings

- (1) Budget and Personnel
 - a. November 19th agenda
- (2) Outreach
- (3) IRA/AGA and Habitability
- (4) Eviction/Section 8/Foreclosure
- (5) Safe & Sustainable Housing
- (6) Waivers Committee
- (7) 4 x 4 City Council/RSB Housing Committee
- (8) Future Special Meetings

c. Discussion of items for possible placement on future agenda

8. **CLOSED SESSION** – The Board will convene in Closed Session pursuant to California Government Code Section 54957(b):

PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: Executive Director

The Board met in closed session from 10:46 until 10:58 and had no action to announce.

9. **Adjournment** M/S/C ADJOURN MEETING AT 11:00 P.M.