



Rent Stabilization Board

RENT STABILIZATION BOARD
Regular Meeting Minutes
(Unapproved)

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, September 15, 2014
7:00 p.m.

Chair Stephens called the meeting to order at 7:11 p.m.

Aimee Mueller called roll.

Commissioners present: Blake, Dodsworth, Harr, Hunt, Shelton, Soto-Vigil, Townley, Webster (arrived 7:24), Stephens

Commissioners absent: None

Staff present: Brown, Kelekian, King, Mueller, Romain (Planning Dept.)

At 7:14 p.m., Chair Stephens announced that the Board would convene in closed session to discuss the subject matter listed below and would announce any action taken upon the Board's return.

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

UPDATE ON LABOR NEGOTIATIONS

Negotiator: Jay Kelekian, Executive Director

Employee Organizations: Public Employees Union, Local One

And pursuant to California Government Code Section 54956.9:

UPDATE ON LITIGATION

Case No. RG 13702962 – *Mak v. City of Berkeley Rent Stabilization Board*

Upon the Board's return from closed session, Chair Stephens announced that the Board took no action.

AGENDA

1. **Roll call** – 7:00 p.m. Following the Board’s return from closed session, Chair Stephens reconvened the meeting. Aimee Mueller called roll.
Commissioners present: Blake (left 8:10), Dodsworth, Harr, Hunt, Shelton (left 10:13), Soto-Vigil, Townley, Webster, Stephens
Commissioners absent: None
Staff present: Arreguin, Brown, Kelekian, King, Law (in audience), Mueller, Romain (Planning Dept.)
2. **Approval of Agenda** M/S/C (Townley/Harr) APPROVE AGENDA. Voice vote.
Carried: 9-0-0-0.
3. **Public Forum** There were two speakers: Commissioner Townley announced that Berkeley and Albany will have an Emergency Exercise on October 18th. This event will run from 9:00 a.m. to 11:00 a.m. and will be an opportunity to learn and practice disaster preparedness with community support. You can visit www.cityofberkeley.info/prepare for more information. Chair Stephens introduced Mr. Drew King to the Board and announced his appointment as the Rent Stabilization Program’s new Deputy Director.
4. **Approval of the July 21st Regular Meeting minutes** M/S/C (Blake/Hunt) APPROVE MINUTES WITH THE FOLLOWING CHANGE: for Item 6.a.(1), the statement after the motion related to Commissioner Townley should read; “*Commissioner Townley stated for the record that the sole reason he abstained is that he does not want to vote against electric vehicle charging stations.*” Voice vote. Carried: 9-0-0-0.

Prior to the vote, Vice Chair Harr noted that, for Item 6.a.(1), the July minutes state that the Board would be sending a letter regarding AB 2565 (Muratsuchi); she requested that a copy of that letter be placed in the Board’s next agenda packet. Harr also noted that, for Item 7.a.(3) from July, the minutes reflect that staff would be doing some research and she’d like to hear back on that at the Board’s next meeting.

5. **Special presentation by Billi Romain, Sustainability Coordinator for the City of Berkeley Planning Department on the proposed Building Energy Saving Ordinance (BESO)**
 - a. Draft Recommendation to Replace the Residential and Commercial Energy Conservation Ordinances (RECO and CECO) with an updated Building Energy Saving Ordinance (City staff)
 - b. Proposed Comments on Draft Building Energy Savings Ordinance (Safe & Sustainable Housing Committee)

During and after her presentation, Billi Romain answered questions from the Board regarding the proposed Building Energy Saving Ordinance. No action was taken.

6. Appeal – 8:00 p.m.*

Appeal T-5328 (1112 Allston Way, Unit A)

Parties present: Shantharam Nekkanti, Appellant

M/S/C (Stephens/Webster) THE RENT CEILING OF \$830.28 IS AFFIRMED. THE RENT OVERCHARGES FOR LACK OF HEAT FROM JANUARY 1 – 14, 2013 ARE INCREASED TO 50% OF THE RENT CEILING. TENANT PAID RENT FOR JULY 2011 (LANDLORD SHALL HAVE 14 DAYS TO CONTEST THIS. IF IT IS NOT CONTESTED, THE HEARING EXAMINER SHALL INCORPORATE THE JULY 2011 RENT PAYMENT INTO THE TOTAL AMOUNT OF RENT OVERCHARGES DUE TENANT). THE NOVEMBER 2011 RENT WAS WAIVED AND SHALL BE REMOVED FROM THE EQUATION AND NOT MADE PART OF THE CALCULATION OF TOTAL RENT DUE, SINCE THIS RENT WAS WAIVED ONLY AS CONSIDERATION FOR SIGNING A NEW LEASE AGREEMENT. THE DECISION SHALL BE REMANDED TO THE HEARING EXAMINER IN ORDER TO DETERMINE THE CORRECT OVERCHARGES BASED ON THE INCREASE IN RENT OVERCHARGES AWARDED FOR LACK OF HEAT AND THE JULY AND NOVEMBER 2011 RENT PAYMENT AND WAIVER.

Roll call vote. YES: Harr, Hunt, Shelton, Soto-Vigil, Townley, Webster, Stephens; NO: None; ABSTAIN: Dodsworth; ABSENT: Blake. Carried: 7-0-1-1.

7. Action Items

a. From Board Members, Executive Director and Committees

- (1) Recommendation to adopt Resolution 14-11 approving a three-year Memorandum of Understanding (“MOU”) with the Public Employees Union, Local One with a term of June 24, 2012 through June 20, 2015 and authorizing the Executive Director to execute and implement the terms and conditions of employment set forth in the new MOU (Executive Director)

M/S/C (Soto-Vigil/Hunt) ADOPT RESOLUTION 14-11 AS WRITTEN. Voice vote. Carried: 6-0-0-3. ABSENT: Blake, Dodsworth (stepped out), Harr (stepped out).

- (2) Recommendation that the Board authorize the Executive Director, in consultation with the Chair (or his/her designee), to appeal any decision of the Zoning Adjustments Board or any Zoning Officer that allows for the elimination of rent-controlled units without making the findings required under the Demolition Ordinance (B.M.C. 23C.08) to adequately mitigate their loss, or when the Planning staff decides that the subject units are not “controlled units” after receiving a contradictory determination from the Rent Board (Budget & Personnel Committee)

M/S/C (Townley/Webster) AUTHORIZE THE EXECUTIVE DIRECTOR IN CONSULTATION WITH THE CHAIR TO APPEAL, ON BEHALF OF THE CITY OF BERKELEY RENT BOARD, ANY DECISION OF THE ZONING ADJUSTMENTS BOARD OR ZONING OFFICER THAT ALLOWS FOR THE ELIMINATION OF RENT- CONTROLLED UNITS WITHOUT CORRECTLY MAKING THE REQUIRED FINDINGS UNDER THE DEMOLITION ORDINANCE; AND AUTHORIZE THE EXECUTIVE DIRECTOR TO DETERMINE WHICH BUDGET CODE WILL BE USED TO PAY THE REQUIRED FEES FOR ANY SUCH APPEAL. Voice vote. Carried: 8-0-0-1. ABSENT: Blake.

- (3) Recommendation that the Board agree to calculate and post the Tenant Screening Fee amount on the Rent Board's website, if the City Council requests (Chair Stephens)

Following Council Member Arreguin's overview of this item, the Board took the following action:

M/S/C (Townley/Harr) SUPPORT THE AMENDMENT OF BERKELEY'S TENANT SCREENING FEE ORDINANCE(BMC 13.78) TO DESIGNATE THE RENT STABILIZATION BOARD AS THE ENTITY RESPONSIBLE FOR CALCULATING AND PUBLISHING THE ANNUAL TENANT SCREENING FEE INCREASE, AND DIRECT THE CHAIR TO COMMUNICATE THAT SUPPORT TO THE CITY COUNCIL AND WILLINGNESS TO CALCULATE AND POST THE TENANT SCREENING FEE ON THE RENT BOARD'S WEBSITE.

Voice vote. Carried: 8-0-0-1. ABSENT: Blake.

- (4) 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>
4389	2112 Eunice Street

Ministerial Waivers

<u>Waiver No.</u>	<u>Property Address</u>
4384	2703 McGee Avenue
4385	1509 Spruce Street
4388	2417 Browning Street
4394	1124 Dwight Way
4396	2808 Derby Street
4398	1623 Francisco Street
4399	1223 Bonita Avenue
4400	120 Fairlawn Drive
4406	2320 9th Street

M/S/C (Townley/Harr) APPROVE THE STAFF RECOMMENDATION FOR ALL WAIVERS. Voice vote. Carried: 8-0-0-1. ABSENT: Blake.

8. Information and Announcements

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

a. Reports from Board Members/Staff

- (1) Future Agenda Items – Soft Story Update (Vice-Chair Harr) *Discussed.*
Commissioner Soto-Vigil added that he would like to know how much a property's value is increased after the building is retrofitted.
- (2) Follow-up items for Future Agendas (Vice-Chair Harr) *Discussed.*
 - a. Attempts by some large property owners to violate the eviction protections enumerated in the Rent Stabilization and Eviction for Good Cause Ordinance
 - b. The impact of the new law pertaining to Accessory Dwelling Units (ADU's)
 - c. Status of "illegal" units that are rent-controlled but not permitting by the Planning Department
 - d. Vacation Rentals
 - e. New State Law on "Vector Control" and its ramifications for Berkeley rental units
- (3) Legislative update (Executive Director) *The Executive Director said the data on this report is correct as of Friday morning, September 12th.*
- (4) Market Medians report updated through the 1st Quarter of 2014 (Executive Director) *Discussed.*
- (5) July 24, 2014 memo from the Executive Director to the Zoning Adjustments Board regarding 2401 Warring Street – Use Permit #2013-0057 (Executive Director) *Discussed.*
- (6) August 18, 2014 Appeal of Zoning Adjustments Board Decision: 2401 Warring Street – Use Permit #2013-0057 (Chair Stephens and Vice-Chair Harr) *Discussed.*
- (7) Communication from Lisa Stephens to the Zoning Adjustments Board regarding 1629 Harmon Street (Chair Stephens) *Discussed.*
- (8) Decision-making policy regarding Rent Board litigation (Commissioners Hunt & Soto-Vigil) *Discussed.* *Commissioner Hunt requested that this item be brought back at the Board's next meeting and be put on the agenda for an earlier time so that there would be opportunity for a full discussion.*
- (9) September 12, 2014 Measure Y Tracking Report (July 2011 – June 2014) (Executive Director and Eviction/Section 8/Foreclosure Committee) *Discussed.*

At this point, the Board agreed to hear Committee Reports next. The remaining Information Items were not discussed.

- (10) Update on charts and tables reflecting annual budgets and staffing levels for Berkeley and other cities (Commissioner Hunt)
 - (11) September 9, 2014 Council Consent Calendar item from the Housing Advisory Commission titled, “Investigate the Creation of a PACE Program to Finance Seismic Retrofits for Multi-Family Buildings” (Executive Director)
 - (12) September 9, 2014 Council Consent Calendar item from the Housing Advisory Commission titled, “Creating Additional Administrative Powers of Zoning Officer to Grant or Recommend New Permits as Related to Code Enforcement” (Executive Director)
 - (13) Renting in Berkeley 101 – A Guide for Cal Students that totally ROCKS (Executive Director)
 - (14) December 12, 2012 SF Weekly article by Joe Eskenazi titled, “Bringing Down the Housing: How Builders Game the System” (Vice-Chair Harr)
 - (15) July 12, 2014 Oakland Tribune article by Pete Carey titled, “Housing Crunch – Bidding wars aren’t limited to those who want to buy homes; developers caught up in fights for land” (Commissioner Hunt)
 - (16) July 12, 2014 Oakland Tribune article by Michael R. Sisak and Rachelle Blidner titled, “Clutter seen as fire hazard” (Commissioner Hunt)
 - (17) July 30, 2014 SFGate.com article by Carolyn Said titled, “S.F. Tenants Rally, Sue Over Evictions for Vacation Rentals” (Executive Director)
 - (18) August 7, 2014 Mother Jones article by Erika Eichelberger and A.J. Vicens titled, “These 7 Charts Show Why the Rent Is Too Damn High” ...and what can be done about it” (Chair Stephens)
 - (19) August 27, 2014 East Bay Express article by Sam Levin titled, “How Oakland Landlords Fight Rent Control” (Vice-Chair Harr)
 - (20) August 28, 2014 NY Times article by Shaila Dewan titled, “Evictions Soar in Hot Market; Renters Suffer” (Executive Director)
- b. Updates and Announcements regarding Committee/Board Meetings
- (1) Budget and Personnel
 - a. September 4th agenda
 - b. September 15th agenda
 - (2) Outreach
 - a. June 20th agenda – *No quorum*

- b. August 15th agenda
- (3) IRA/AGA and Habitability
 - a. September 12th agenda
- (4) Eviction/Section 8/Foreclosure – Commissioner Dodsworth raised the issue of properties with approved building or zoning permits and whether those permits should trigger mailings to affected tenants about their rights to stay during construction. Committee Chair Harr agreed to discuss this issue with staff so it could be determined which committee would be the most appropriate to take up this issue.
 - a. September 12th agenda
- (5) Safe & Sustainable Housing – Committee Chair Townley updated the Board on the Committee’s recent work including communication with the City’s Safe & Sustainable Coordinator, and contact with the Fire Department regarding a citizen’s ability to lodge an anonymous complaint about threats to life and limb. This Committee would like the Outreach Committee to take up the issue of expanding citizens’ ability to make anonymous safety complaints. Outreach Committee Chair Webster agreed to put this on the Outreach Committee’s next agenda. Committee Chair Townley also wants to ask the Board to direct staff to investigate types of building code violations that represent urgent life safety threats. It was agreed that this item would be placed on a future agenda.
 - a. June 26th minutes
 - b. August 14th agenda
 - c. August 14th minutes
 - d. September 11th agenda
- (6) Waivers Committee
- (7) 4 x 4 City Council/RSB Housing Committee – Chair Stephens said that there was nothing to report. Vice Chair Harr said that, if the Council contingent of this committee was not interested in meeting, she would like the Rent Board 4x4 members to meet some time in the next two months. Chair Stephens said that if that is the wish of other Rent Board 4x4 members, they should forward her their availability for the next month to her by Thursday, September 18th.
- (8) Future Special Meetings

Commissioner Soto-Vigil announced that on Saturday, September 27th, Dolores Huerta will be hosting two events at the Little Theater on the Berkeley High School campus: a teacher “teach-in” from 3:30 – 5:00 p.m., and a community forum from 6:30 p.m. to 8:30 p.m. These events will be free of charge. For more information, please call 510.610.0466.

c. Discussion of items for possible placement on future agendas

- Commissioner Harr's recommendations in Items 8.a.(1) and 8.a.(2).
- Commissioner Hunt's request to have a full discussion about how the Board decides to initiate litigation.

9. Adjournment – M/S/C ADJOURN MEETING AT 10:36 P.M.