



Rent Stabilization Board

MEMORANDUM

DATE: February 6, 2017
TO: Rent Board Commissioners
FROM: Rent Board Chair Selawsky and Vice Chair Laverde
SUBJECT: Proposed Process to Select a Replacement for Outgoing Board Member Harr

Background:

Under the City Charter, the Board must select a replacement to complete the time remaining (through November 30, 2018) on Rent Board Commissioner Katherine Harr's term. We are proposing that the Board follow the process outlined below for two important reasons:

- 1) It is important to have several viable candidates for the Board to choose from so that the Board is able to select someone who both best matches the Board's needs and also complements the strengths of the current Board.
- 2) While it is important to have an open and public process, we do not believe it is in the best interests of the Board to prolong this process more than is necessary. Last time, it took over four months (December – April) to replace an outgoing Commissioner. The proposed process, if successful, will have the appointment process completed by our March 20th regular Board meeting

Recommendation:

That the Board adopt the following process for selecting a replacement to complete the time remaining on the term of outgoing Rent Board Commissioner Kathy Harr:

1. On February 7th, staff shall issue a press release and post on the Rent Board's website, an announcement concerning the vacancy and that the Board is considering interested qualified candidates. The announcement will outline, for the community, the process adopted by the Board including filing deadlines, notice that the information submitted is a public document and an explanation of how to submit appropriate information in order to be considered.

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2. Between February 7th and 5:00 pm on February 22nd, 2017, any interested and legally eligible member of the community may submit the appropriate information to the Executive Director indicating interest in being considered a candidate to fill the vacant seat. Staff will forward all information received from interested members of the community to all Board members' email within one business day of receipt.
3. The Board will hold a Special Board Meeting on February 27th where Board members will be able to nominate individuals to be reviewed by an Ad Hoc Committee. Each Board member shall be allowed up to two nominations. Board members may nominate anyone legally qualified to serve on the Board regardless if the individual submitted information to the Executive Director. Nominations are entirely at the discretion of each member of the Board, and it is not mandatory for a Board member to nominate anyone. Board members may also nominate someone that has already been nominated by another commissioner. The goal is to develop a pool of candidates to be vetted that reflects individuals the Board is most interested in considering. The nomination process must be done at an open, public meeting.
4. The Board establishes an Ad Hoc Replacement Committee consisting of the current Chair and Vice-Chair as well as the most recent former Chair and Vice-Chair (Selawsky, Laverde, Townley and Soto-Vigil). The Ad Hoc Committee will begin meeting in early March in order to discuss, vet and rank those candidates nominated by Board members. The results/conclusions of the ranking will reported back to the Board at the March 20th regularly scheduled meeting of the Rent Board. The report will be included in the Board's agenda packet.
5. The goal is that the Board will select a successor to Commissioner Harr's seat at the March 20th regular Board meeting. Below, we have listed the process followed by the Board in 2010 (provided in the staff report). This process was developed by the last Ad Hoc subcommittee and unanimously approved by the Board in 2010. We believe it is a reasonable and fair process and submit it for the Board's consideration. We believe that the process for how the Board will make their selection should be established before the evening we make the selection.

Possible Process for Selecting from the Candidates Reviewed by the Ad Hoc Committee

Any Commissioner may nominate a candidate for appointment. Any person appointed to the Board must be a resident of Berkeley and registered voter. (City Charter, Article XVII, Section 121(1).) Once nominations are closed, the Board chair must conduct the election according to the agreed upon voting procedures. The first candidate to receive five votes will be appointed to the Rent Board. Before assuming office, the newly appointed Commissioner must take an oath of office. (City Charter, Article V, Section 18.)

There are no set rules for selecting and voting on a proposed interim Commissioner. The Board may wish to establish procedures for considering possible appointees and for making a selection

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from among candidates or this task could be delegated to an Ad Hoc Committee. The last two times there has been a vacancy on the Board, the Chair has appointed an Ad Hoc Committee to vet potential candidates and make a recommendation to the full Board. This committee speaks with candidates and reviews their resumes.

The issue of how the full Board selects an interim Commissioner is a bit more complicated. When the Board has to make a simple yes/no decision on an issue there's really only one way: ask everyone whether they're for or against, and the majority rules. Complicated questions, however, often require a different approach. When choosing among several candidates for a single position many candidates may be acceptable, so the candidates who get voted on first generally have the advantage, because they might get chosen by a bare majority, while another candidate might be more popular but never have the question called regarding his/her candidacy. When the Board last selected an interim Commissioner in 2010, the Commissioners chose the following six step method as the most transparent and fair:

1. After reading the resumes of each of the applicants as well as the report from the Ad Hoc Committee, Board members ask the Committee members questions for clarification purposes.
 2. All candidates that are present in the Council Chambers shall be given 3 minutes to introduce themselves to the Board. Board members may ask questions of any of the candidates present.
 3. The question who the Board should select will be discussed among Board members. Board members may ask additional questions of the candidates, if necessary.
 4. Upon conclusion of the discussion among Board members and questioning of candidates, the Board will hold an open straw vote to determine the candidates with the strongest support. The concept is that it is fairer to vote first on a candidate with the broadest support as several candidates may be acceptable to the Board. So that no Board member has a positional advantage, each member will write down his or her first and/or second choices in order on a slip of paper with the voting Commissioner's name at the top. Staff will then collect and read the name of the member and his or her selection(s), and tabulate the votes on a chalkboard. The straw vote will determine the order in which candidates are voted on by the full Board but not be considered the final vote or action by the Board.
- The candidate with the greatest **total** votes (combined first and second place votes) in the straw poll would be the first person for the Board to formally consider. If that individual is not selected by the formal Board vote, the candidate with the next greatest number of combined first and second-place votes will be voted on second, and so forth.

- If any candidates have the same combined totals, the candidate with more first-place votes will be voted on ahead of the other candidate. For example, you have the following situation:

	1 st Place Votes	2 nd place votes	Total Votes
Candidate A:	4	3	7
Candidate B:	3	4	7
Candidate C:	1	1	1

In this scenario, Candidate A would be voted on by the full Board first, followed by Candidates B and C, if necessary.

- If any candidates tie both in first and second-place totals, a coin-flip will determine the order in which they get voted on.
- One scenario that requires clarification - Should any candidate receive five or more first-place votes (a majority of the Board) in the straw poll, but **not** receive the greatest number of total votes - will that candidate be voted on first or based upon where s/he stands in the total number of votes? For example, you have the following situation(s):

	1 st Place Votes	2 nd place votes	Total Votes
Candidate A:	7	0	7
Candidate B:	1	7	8
Candidate C:	0	1	1

Or

	1 st Place Votes	2 nd place votes	Total Votes
Candidate A:	5	0	5
Candidate B:	1	7	8
Candidate C:	2	1	3

There are arguments to be made on both sides of this “Passion or Consensus” debate and the Board must determine which approach it wishes to take prior to the straw poll.

5. If no candidate receives five votes during the direct voting by the full Board, the candidate who receives the fewest votes will be eliminated, and we will begin the process again, starting from the straw vote, with one fewer candidate. If there’s a tie for fewer

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positive votes, the candidate with the weakest straw-vote total will be the one eliminated, following the above rules.

If the process runs to the end and even the last remaining candidate does not get five votes, the chair will open the floor for new nominations or other motions.