

RESOLUTION 19-19

WAIVER OF PARTIAL REGISTRATION FEE AND RATIFICATION OF DISMISSAL OF APPEAL OF RENT BOARD PETITION NO. RWN-1621

WHEREAS, property owner Andrew Marowitz timely appealed a hearing examiner's decision regarding Rent Board Petition No. RWN-1621 on May 14, 2019; and

WHEREAS, Board legal staff dismissed the appeal on July 19, 2019, because Mr. Marowitz wrote "**PLEASE TAKE NOTICE.....I am NOT appealing the decision of RWN 1621.**" (Appeal, page 5, bold-faced type and ellipsis original.); and

WHEREAS, Appellant also requested a refund of the \$100.00 appeal fee. (Appeal, page 11.); and

WHEREAS, legal staff believes the order of the decision in RWN-1621 would have resulted in Appellant owing a total of \$32.00 in Rent Board Registration Fees which would be the sole legal effect of the decision; and

WHEREAS, Board staff is informed that Mr. Marowitz currently resides at the subject unit as an owner occupant and that there are no tenants living in the unit with him meaning that he is not subject to any Rent Board fees or regulations for that unit; and

WHEREAS, hearing examiners' decisions have no precedential effect absent a Board ruling on appeal; and

WHEREAS, given that the unit is currently exempt, there are no concerns that any tenant's or landlord's rights or obligations are affected by dismissal of the appeal; and

WHEREAS, the cost of processing, analyzing, and considering the appeal far outweighs the potential amount that the Board would be owed; and

WHEREAS, the efficient use of public funds is an important consideration when the sole remaining issue is a potential debt to the Board; and

WHEREAS, the parties to Rent Board case No. RWN-1621 no longer reside in the same unit together as was the case during the pendency of the petition;

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THEREFORE, BE IT RESOLVED that the Berkeley Rent Board hereby ratifies the dismissal of the appeal of the hearing examiner's decision in Rent Board Petition No. RWN-1621; and

BE IT FURTHER RESOLVED that in dismissing the instant appeal, the Berkeley Rent Board is not affirming, amending or overturning the hearing examiner's decision; and

BE IT FURTHER RESOLVED the Berkeley Rent Board waives any fees that may have otherwise been due based on the hearing examiner's decision in RWN-1621; and

BE IT FURTHER RESOLVED that the Board makes clear that both the hearing examiner's decision in RWN-1621 and subsequent dismissal of the appeal shall have no precedential effect on any future Rent Board petitions; and

BE IT FURTHER RESOLVED that staff is instructed to return Appellant Andrew Marowitz' appeal fee of \$100.00.

Dated: August 15, 2019

Adopted by the Rent Stabilization Board of the City of Berkeley by the following vote:

YES:

NO:

ABSTAIN:

ABSENT:

Paola Laverde, Chairperson
Rent Stabilization Board

Attest: _____
Jay Kelekian, Executive Director