

# **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

Monday, June 17, 2013 7:00 p.m.

1. Roll call – Chair Stephens called the meeting to order at 7:09 p.m.

Aimee Mueller called roll.

Commissioners present: Blake (arrived 7:19), Dodsworth, Harr, Hunt, Shelton, Soto-Vigil

(arrived 7:11), Townley, Webster (arrived 7:20), Stephens

Commissioners absent: None

Staff present: Arreguin, Brown, Kelekian, Law (in audience), Mueller

- **2.** Approval of Agenda M/S/C (Harr/Dodsworth) APPROVE AGENDA WITH THE FOLLOWING CHANGE: MOVE INFORMATION ITEMS 7.a.(1) AND 7.a.(2) UP TO ACTION ITEMS AND HEAR ITEM 7.a.(2) AFTER ITEM 6.a.(1), FOLLOWED BY ITEM 7.a.(1). Voice vote. Carried: 6-0-0-3. ABSENT: Blake, Soto-Vigil, Webster.
- **3.** <u>Public Forum</u> There were two speakers: Jacob Waschak on the Soft Story Ordinance and Andrew Marowitz on Item 7.a.(14).

Chair Stephens then requested that this meeting be adjourned in honor of Patti Dacey, who recently passed away. Chair Stephens said Ms. Dacey was a member of the Planning Commission, and a good friend of hers, and the two worked on many political issues together. Ms. Dacey was also the Secretary of the Le Conte Neighborhood Association, a defender of landmarks, the poor, tenants, and death row inmates. Chair Stephens called her "a great seeker of justice" and said that – whether you agreed with her or not – Berkeley will miss her, her humor, and her ability to take a tense political situation and turn it into something fun.

**4.** <u>Approval of May 13<sup>th</sup> Regular Meeting Minutes</u> M/S/C (Harr/Townley) APPROVE MINUTES AS WRITTEN. Voice vote. Carried: 8-0-0-1. ABSENT: Blake (stepped away).

In order to honor the Appeal Time Certain of 8:00 p.m., the Board then moved to hear Action Items 6.a.(1) and 6.a.(2) before Item 5.

#### **5.** Appeal D-59 (2517 Regent Street, Unit #5)

Parties present: Alex Moskovitz, Esq. (on behalf of Appellant), Tom Richman (Respondent), Michael St. John (on behalf of Respondent)

Staff Attorney Matt Brown informed the Board that Pages 22 through 25 of the record for this item were inadvertently included and were not related to this appeal. He instructed the Board to disregard these pages.

M/S/C (Townley/Stephens) THAT THE BOARD UPHOLD THE HEARING EXAMINER'S DECISION, AND INCLUDE IN THE DECISION THAT THE BOARD FINDS THAT THERE WAS NO INTENT ON THE PART OF MR. SHARP TO MISLEAD. Roll call vote. YES: Blake, Harr, Hunt, Shelton, Townley, Webster, Stephens; NO: None; ABSTAIN: Dodsworth, Soto-Vigil; ABSENT: None. Carried: 7-0-2-0.

# 6. Action Items

- a. From Board Members, Executive Director and Committees
  - (1) Recommendation to adopt the proposed Fiscal Year (FY) 2013-2014 Line-item

    <u>Budget and Staffing Model</u> (Executive Director and Budget & Personnel

    Committee)

Substitute motion: M/S/C (Soto-Vigil/Dodsworth) ADOPT PROPOSED FY 2013-2014 BUDGET AND STAFFING MODEL – "Option B" – WITH THE FOLLOWING MODIFICATION: DELAY BOTH THE ELIMINATION OF THE ASSISTANT PLANNER POSITION AND THE ADDITION OF THE ASSISTANT MANAGEMENT ANALYST POSITION. Roll call vote. YES: Dodsworth, Harr, Soto-Vigil; NO: Blake, Hunt, Shelton, Townley, Webster; ABSTAIN: Stephens; ABSENT: None. Failed: 3-5-1-0.

*Main motion*: M/S/C (Hunt/Harr) ADOPT PROPOSED FY 2013-2014 BUDGET AND STAFFING MODEL – "Option A" – INCLUDING THE ELIMINATION OF THE ASSISTANT PLANNER POSITION AND THE ADDITION OF THE ASSISTANT MANAGEMENT ANALYST POSITION, WITH THE UNDERSTANDING THAT THIS ITEM WILL BE BROUGHT BACK BEFORE THE FULL BOARD AT THE REGULARLY-SCHEDULED JULY BOARD MEETING. Voice vote. Carried: 9-0-0-0.

Next, the Board heard **Appeal D-59** for 2517 Regent Street, Unit #5 (see Item 5. above).

Following the Appeal, Information Items 7.a.(2) and 7.a.(1) – which were moved up to Action by an earlier vote on Approval of the Agenda – were heard next in that order.

### 7.a.(2) <u>Update on the Acheson Commons Development Appeal – 2133 University Avenue</u>

It was announced that the final recommendation of the Zoning Adjustments Board (ZAB) included in its findings that the eight units in question – that will either be demolished or moved – are, in fact, covered by rent control. The ZAB's final recommendation also stated that there be 26 units of affordable housing required in this development at an affordability level of 50% of Area Median Income (AMI) if the buildings are demolished. If the buildings can be moved, they will be restored and held at an affordability level of 50% of AMI or better.

The Board took no action on this item.

#### 7.a.(1) Update on Proposed Revisions to the Demolition Ordinance, BMC 23C.08

Council Member Arreguin presented a summary of the action taken by City Council on this item at their June 11<sup>th</sup> meeting. Following discussion, the Board took the following action:

M/S/C (Soto-Vigil/Stephens) REQUEST THAT CHAIR STEPHENS WORK WITH STAFF TO DRAFT A LETTER TO CITY COUNCIL REQUESTING THAT THE DEMOLITION ORDINANCE BE REFERRED BACK TO THE PLANNING COMMISSION, PROVIDE A LEGAL ANALYSIS THAT SHOWS HOW THESE PROPOSALS RELATE TO THE NEIGHBORHOOD PRESERVATION ORDINANCE AND COSTA-HAWKINS, AND REAFFIRM THAT THE JUNE 4th DRAFT WAS THE CULMINATION OF A YEARS-LONG PROCESS THAT RESULTED IN A FAIR COMPROMISE. FURTHER, THAT THE CHANGED LANGUAGE APPEARS TO BE "VOLUNTARY RENT CONTROL" AND IS IN NO WAY SIMILAR TO THE LANGUAGE THAT WAS VETTED BY BOTH CITY AND RENT BOARD STAFF, AND THE PLANNING COMMISSION, IS POSSIBLY ILLEGAL AND – IF FOUND TO BE SO – PROVIDES NO MITIGATION FOR DISPLACED TENANTS OR THE LOSS OF AFFORDABLE HOUSING. ALSO INCLUDE THAT THIS NEW LANGUAGE WOULD CREATE A PRECEDENT FOR DEMOLISHING HOUSING THROUGHOUT THE CITY, AFFECTING THE CHARACTER OF NEIGHBORHOODS AND KICKING TENANTS OUT OF OUR COMMUNITY. ALSO INCLUDING THAT TRACKING AND ENFORCEMENT OF AFFORDABLE HOUSING IS EASIER USING A PERCENTAGE OF AREA MEDIAN INCOME (AMI). Voice vote. Carried: 8-0-1-0. ABSTAIN: Hunt.

(2) Recommendation to adopt amendment to Rent Board Regulation 503 [Definition of Principal Residence] – Second Reading (IRA/AGA/Habitability Committee)

M/S/C (Harr/Dodsworth) ADOPT AMENDMENT TO RENT BOARD REGULATION 503 ON SECOND READING. Voice vote. Carried: 9-0-0-0.

(3) Recommendation to adopt proposed Rent Board Regulation 807 [Exemption from Registration for units with tenants receiving monthly assistance through the Section 8 Program or the Shelter Plus Care Program or equivalent rent subsidy program] – First Reading (IRA/AGA/Habitability Committee)

M/S/C (Soto-Vigil/Townley) ADOPT PROPOSED RENT BOARD REGULATION 807 ON FIRST READING. Voice vote. Carried: 8-0-1-0. ABSTAIN: Hunt.

### Action Items 6.a.(4) through 6.a.(9) below were voted on in one motion, as follows:

M/S/C (Harr/Soto-Vigil) ADOPT THE RESOLUTIONS FOR ITEMS 6.a.(4), 6.a.(5), 6.a.(6), 6.a.(7), 6.a.(8) and 6.a.(9) AND THEIR RESPECTIVE RECOMMENDATIONS AS WRITTEN. Voice vote. Carried: 8-1-0-0. NO: Hunt.\*

\*Commissioner Hunt stated for the record that her reason for voting "No" on this motion is because she feels that landlord fees are being spent on agencies that advocate for tenants.

- (4) Recommendation to adopt Resolution 13-05 authorizing the Executive Director to modify the contract with Christine Minnehan & Associates by extending the term through June 30, 2014 and increasing the contract by an amount not to exceed \$46,000 (Executive Director)
- (5) Recommendation to adopt Resolution 13-06 authorizing the Executive Director to modify the contract with the Eviction Defense Center (EDC) by extending the term through June 30, 2014 and increasing the contract by an amount not to exceed \$112,000 (Executive Director)
- (6) Recommendation to adopt Resolution 13-07 authorizing the Executive Director to modify the contract with the East Bay Community Law Center (EBCLC) by extending the term through June 30, 2014 and increasing the contract by an amount not to exceed \$123,320 (Executive Director)
- (7) Recommendation to adopt Resolution 13-08 authorizing the Executive Director to modify the contract with Theresa B. Darrenougue by extending the term through June 30, 2014 and increasing the contract by an amount not to exceed \$12,000 (Executive Director)
- (8) Recommendation to adopt Resolution 13-09 authorizing the Executive Director to modify the contract with Berkeley Community Media (BCM) by extending the term through June 30, 2014 and increasing the contract by an amount not to exceed \$20,000 (Executive Director)
- (9) Recommendation to adopt Resolution 13-10 authorizing the Executive Director to establish a Purchase Order with Volt Workforce Solutions for FY 2013-2014 and the

balance of FY 2012-2013 by an amount not to exceed \$15,000 (Executive Director)

The combined motion and vote for Action Items 6.a.(1) through 6.a.(9) is noted above.

(10) Recommendation to request that the City Council amend the Berkeley Municipal Code (BMC) to define and address mold growth in Berkeley residences (Commissioner Soto-Vigil)

Substitute motion: M/S/C (Dodsworth/Soto-Vigil) SEND A COMMUNICATION TO CITY COUNCIL REQUESTING THAT THEY AMEND THE BMC TO DEFINE AND ADDRESS MOLD GROWTH IN BERKELEY RESIDENCES, SIMILAR TO THAT OF THE SAN FRANCISCO MOLD ORDINANCE, AND FORWARD TO THE COMMUNITY HEALTH COMMISSION ALSO. Roll call vote. YES: Dodsworth, Harr, Soto-Vigil, Webster; NO: Blake, Hunt, Shelton, Stephens; ABSTAIN: Townley; ABSENT: None. Failed: 4-4-1-0.

Main motion: M/S/C (Blake/Hunt) REFER THIS ISSUE TO THE IRA/AGA/HABITABILITY COMMITTEE TO REVIEW AT THEIR NEXT MEETING AND REQUEST THAT THEY MAKE A RECOMMENDATION TO THE FULL BOARD. Voice vote. Carried: 9-0-0-0.

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

#### **Ministerial Waivers**

Waiver No.	Property Address
4193	2018 Virginia Street
4267	1035 Allston Way
4269	2521 San Pablo Avenue
4271	2501 Hilgard Avenue
4272	900 Spruce Street
4274	2904 Regent Street
4275	1316 Shattuck Avenue
4276	1569 Arch Street

## **Discretionary Waivers**

Waiver No.	Property Address
4263 4265	2243 Ashby Avenue (held over from May 13 <sup>th</sup> meeting) 2630 Mathews Street
4266	1670 Shattuck Avenue
4268	2917 Shattuck Avenue
4270	1109 Parker Street
4273	1517 Alcatraz Avenue

4277 1730 Parker Street

Commissioner Hunt pulled Waiver Nos. 4270 and 4273 for discussion; Commissioner Soto-Vigil pulled Waiver No. 4266; Commissioner Townley pulled Waiver Nos. 4263 and 4270; and Commissioner Harr pulled Waiver No. 4263 as well.

M/S/C (Blake/Townley) APPROVE THE STAFF RECOMMENDATION FOR ALL MINISTERIAL WAIVERS AND FOR DISCRETIONARY WAIVER NOS. 4265, 4268, AND 4277. Voice vote. Carried: 9-0-0-0.

M/S/C (Harr/Shelton) IMPOSE THE FULL PENALTY FOR WAIVER NO. 4263. Voice vote. Carried: 8-0-1-0. ABSTAIN: Townley.

M/S/C (Blake/Harr) WAIVE FIFTY-PERCENT OF THE PENALTY FOR WAIVER NO. 4266. Roll call vote. YES: Blake, Dodsworth, Harr, Hunt, Webster, Stephens; NO: Shelton, Soto-Vigil, Townley; ABSTAIN/ABSENT: None. Carried: 6-3-0-0.

M/S/C (Blake/Hunt) APPROVE STAFF RECOMMENDATION FOR WAIVER NO. 4270. Voice vote. Carried: 7-1-1-0. NO: Soto-Vigil; ABSTAIN: Townley.

M/S/C (Harr/Blake) APPROVE STAFF RECOMMENDATION FOR WAIVER NO. 4273. Voice vote. Carried: 9-0-0-0.

At this point, the Board moved to hear Information Item 7.a.(14) next and table the remaining Information Items to the next regularly-scheduled Board meeting, noting that at the next meeting, the Committee Announcements and Reports should be heard before any Appeal.

The Board then discussed Item 7.a.(14) and the remaining Information Items below were tabled.

#### 7. <u>Information and Announcements</u>

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

#### a. Reports from Board Members/Staff

- (1) Update on Proposed Revisions to the Demolition Ordinance, BMC 23C.08 (Executive Director)
- (2) Update on the Acheson Commons Development Appeal 2133 University Avenue (Executive Director)
- (3) Update on the Proposed Ordinance on Smoke-Free Housing (Executive Director)
- (4) Update on Regulation 1282 (Executive Director)

- (5) April 26, 2013 letter from Badawi & Associates regarding final results of outside audit of the Rent Board for the year ended June 30, 2012 (Executive Director)
- (6) Copy of Neighborhood Preservation Ordinance (Chair Stephens)
- (7) REVISED May 3, 2013 Distressed Properties/Foreclosure Report to the Eviction/Section 8/Foreclosure Committee (Executive Director)
- (8) May 7, 2013 Council item on "Contract: Wells Fargo Bank for Banking Services" (Executive Director)
- (9) Update on the May 29, 2013 presentation to the Berkeley Association of Realtors (Executive Director)
- (10) Update on annual Registration for fees due July 1, 2013 (Executive Director)
- (11) May 23, 2013 SFGate.com article by Carolyn Said titled, "Security deposits stir up disputes between landlords, tenants" (Executive Director)
- (12) May 2013 Rental Housing magazine article by John Caronna titled, "It's a Great Time to Buy & Sell" (Executive Director)
- (13) June 10, 2013 San Francisco Chronicle editorial by Enrico Moretti titled, "How to make housing more affordable" (Commissioner Hunt)
- (14) <u>June 2013 communications from Andrew Marowitz and Rent Board staff responses</u> (Executive Director)
- b. Updates and Announcements regarding Committee/Board Meetings
  - (1) Budget and Personnel
    - a. June 14<sup>th</sup> agenda
  - (2) Outreach
    - a. April 19<sup>th</sup> minutes
    - b. June 14<sup>th</sup> agenda
  - (3) IRA/AGA and Habitability
  - (4) Eviction/Section 8/Foreclosure
    - a. May 3<sup>rd</sup> minutes
    - b. June 7<sup>th</sup> agenda
  - (5) Safe & Sustainable Housing

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- (6) Waivers Committee
- (7) Ad Hoc Committee on Smoke-Free Housing
- (8) 4 x 4 City Council/RSB Housing Committee
  - a. March 25<sup>th</sup> minutes
  - b. May 16<sup>th</sup> agenda
- (9) Future Special Meetings
- c. <u>Discussion of items for possible placement on future agenda</u>
- **8.** <u>Adjournment</u> M/S/C (Dodsworth/Townley) ADJOURN TONIGHT'S MEETING IN HONOR OF PATTI DACEY WHO WILL BE DEARLY MISSED. Voice vote. Carried: 8-0-0-1. ABSENT: Blake. The meeting was adjourned at 10:51 p.m.