

Rent Stabinization Board

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, September 16, 2013 7:00 p.m.

Roll call – Chair Stephens called the meeting to order at 7:07 p.m. and asked that roll be called. Aimee Mueller called roll.

Commissioners present: Blake (arrived 7:20, left 8:32), Dodsworth, Harr, Hunt, Shelton, Soto-

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

Commissioners absent: None

Staff present: Brown, Kelekian, Law (in audience), McNulty (Planning Dept.), Mueller, Zamora

(Human Resources Dept.)

Chair Stephens then announced that the Board would be convening in Closed Session as noted below, and said she expected the Board would return shortly.

<u>CLOSED SESSION</u> -- The Board will convene in Closed Session pursuant to California Government Code § 54957(b):

UPDATE ON LABOR NEGOTIATIONS

Negotiators: Jay Kelekian, Executive Director; and Margarita Zamora, Acting Employee Relations Officer

Employee Organizations: SEIU Local 1021, Community Service and Part-Time Recreation Leaders Association

Following the Board's return, Chair Stephens announced that the Board took the following action during Closed Session:

M/S/C (Townley/Harr) **Approve the contract with SEIU Local 1021, Community Service and Part-Time Recreation Leaders Association.** Carried: 9-0-0-0.

1. Roll call – Chair Stephens asked that roll be taken again at 7:26 p.m.

Aimee Mueller called roll.

Commissioners present: Blake, Dodsworth, Harr, Hunt, Shelton, Soto-Vigil, Townley, Webster,

Stephens

Commissioners absent: None

Staff present: Brown, Kelekian, Law (in audience), McNulty (Planning Dept.), Mueller

2. <u>Approval of Agenda</u> M/S/C (Blake/Townley) APPROVE AGENDA. Voice vote.

Carried: 9-0-0-0.

- **3.** Public Forum There was one speaker: Marilyn Sagna spoke about the conditions of her Section 8 unit at 917 Channing Way, her experience with several Owner Move-in evictions, and her attempts to get assistance in resolving the habitability issues she's currently facing.
- **4.** <u>Approval of the August 26th Regular Meeting minutes</u> M/S/C (Blake/Webster) APPROVE MINUTES AS WRITTEN. Voice vote. Carried: 9-0-0-0.

5. Action Items

- a. From Board Members, Executive Director and Committees
 - (1) <u>Memorandum Agreement: Service Employees International Union, Local 1021</u> Community Services & Part-Time Recreation Leaders Association

THIS ITEM WAS VOTED ON DURING CLOSED SESSION (see vote above).

(2) Recommendations concerning Proposed Phase II of the Soft Story Ordinance

M/S/C (Townley/Soto-Vigil) ADOPT THE RECOMMENDATIONS FORWARDED BY THE SAFE & SUSTAINABLE HOUSING COMMITTEE. IN ADDITION, COMMISSIONERS REQUESTED THE CHAIR INCORPORATE THE FOLLOWING CHANGES INTO THE FINAL RECOMMENDATION TO THE PLANNING DEPARTMENT:

- 1. Stephens: IN SECTION 2.a., RE-ORDER THE FIRST SENTENCE OF SECTION 2.A. TO READ AS FOLLOWS: "Consider the need to allow the pass through of a portion of the cost of the retrofit as a rent increase to tenants for an owner who otherwise does not qualify under the current regulations."
- 2. Blake: Hardship should be determined on a "case-by-case" basis.
- **3. Blake**: Limit hardship provision eligibility using this language as guidance: "Partners and individual owners back up by their financial situation with personal assets; however, such clarity does not guide corporations, particularly LLC's, which may structure their purchases as tax write-offs to lose money. Any incentive for hardship cases should be crafted for individuals and partnership applicants only.

- **4. Blake**: Change language relating to parking and safety to something like: "Adjust parking requirements when they function as an impediment to safety."
- **5. Blake**: Clarify language that extensions for hardship, "must include a <u>credible</u> plan to <u>fully</u> finance the seismic improvements during the hardship period."
- **6. Blake**: Spell retrofit with only one "t", including when change of tense might otherwise double it. This should apply to the required building warning signs as well.
- **7. Dodsworth**: Change language to reflect that the public, rather than just Berkeley residents, may request that the City review buildings for SWOF determination.
- **8. Soto-Vigil**: That the recommendation that staff should be authorized to approve no more than two annual hardship extensions and that three or more hardship extensions must be approved by Council, be emphasized by bold lettering.
- **9.** Harr: Clarify language to reflect that the City should pursue a loan program and other options to assist hardship cases first, and that a pass-through to tenants should be a last resort.
- (3) Recommendation to amend Regulation 702 [Payment of Interest on Security Deposits] due to lack of data published by the Federal Reserve Board *First Reading*

M/S/C (Soto-Vigil/Harr) ADOPT PROPOSED AMENDMENT TO REGULATION 702 ON FIRST READING. Voice vote. Carried: 8-0-1-0. ABSTAIN: Hunt.

- (4) <u>Discussion and possible action on the subject of eminent domain in the case of</u> foreclosed homes in Berkeley (Chair Stephens and Commissioner Townley)
 - a. Article from Contra Costa Times by Robert Rogers titled, "Richmond: Divided City Council votes to stay on course with plan to use eminent domain to seize mortgages" (Chair Stephens)
 - b. Article from Oakland Tribune by Robert Rogers titled, "RICHMOND MORTGAGE PLAN – Eminent domain concerns mount" (Commissioner Hunt)

M/S/C (Stephens/Soto-Vigil) REFER THE SUBJECT OF EMINENT DOMAIN TO THE EVICTION/SECTION 8/FORECLOSURE COMMITTEE FOR FURTHER REVIEW AND EXPLORE HOW THIS MECHANISM COULD BE USED IN BERKELEY FOR POSSIBLE FUTURE RECOMMENDATION TO THE CITY COUNCIL. Carried by unanimous vote.

(5) <u>Proposal to approve staff recommendation on the following requests for waiver of late registration penalties</u> (Executive Director)

The Board will be presented with a list of 235 properties totaling \$129,868 in penalties that have been administratively waived in accordance with Regulation 883.

Ministerial Waivers

Waiver No.	Property Address
4294	3041 Tremont Street
4305	1919 Cedar Street
4307	1231-1233 Burnett Street

Discretionary Waivers

Waiver No.	Property Address
4280	2665 Shasta Road
4283	2111 Byron Street
4285	1837 Addison Street
4291	2675 Sacramento Street
4292	2760 Dohr Street
4295	1437 Ward Street
4296	1650 Tyler Street
4300	3110 Martin Luther King Jr. Way
4301	3114 Martin Luther King Jr. Way
4304	1632 Walnut Street

M/S/C (Townley/Webster) APPROVE ALL MINISTERIAL WAIVERS AND ALL DISCRETIONARY WAIVERS EXCEPT WAIVER NO. 4283 WHICH WILL BE HELD OVER TO THE NEXT REGULARLY-SCHEDULED BOARD MEETING. Voice vote. Carried: 7-1-0-1. ABSTAIN: Shelton; ABSENT: Blake.

6. Information and Announcements

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

a. Reports from Board Members/Staff

- (1) <u>Update on proposed ordinance on Smoke-Free Housing</u> The Executive Director said he has not seen a copy of the revisions to the proposed ordinance; he was informed that this item will go before Council on October 1st. He added that, if the proposed ordinance language contains significant deviations from what the Board recommended, staff will send a communication to Council and attend the Council meeting.
- (2) <u>Update on Proposed Revision to the Demolition Ordinance</u> Chair Stephens said this item did go before the Housing Advisory Committee (HAC) last Thursday, and she believes it will go before the Planning Commission sometime in October. Commissioner Soto-Vigil added that the HAC voted unanimously to support the June

- version of this Ordinance, with two small amendments that don't drastically alter the June version, and they're very happy to support this.
- (3) Updated Measure Y Tracking Report given to the Eviction/Section 8/Foreclosure
 Committee and Rent Board Regulation 1016 Vice-Chair Harr said there are two
 important things to know about this report: first, that there have been 12 evictions
 under Measure Y so far this year, whereas there have been less than 10 each year since
 2009. Though we don't know if this is a statistical anomaly, if not, we will have 18
 this year which is a 108% increase from prior years. The Eviction/Section
 8/Foreclosure Committee will be looking more closely at this report and the possible
 reasons for this. The second thing to note about this report is that, of the 21 Measure
 Y evictions, in nine of these, the owner did not move in. Harr noted the circumstances
 in several other cases and said the Committee will continue to look into this issue in an
 effort to ensure that these evictions are legitimate.
- (4) September 2013 article in Rental Housing magazine (a publication of the East Bay Rental Housing Association) by Grant Chappell titled, "Steady Volume, Climbing Prices" Vice-Chair Harr cited some of the statistics from this article, including: approximately 2,880 units were built or under construction in the East Bay last year; Notices of Default are down 67% year over year, and the bank-owned inventory is down 40% compared to one year ago. She called attention to several other noteworth statistics in this article that she found very useful.
- (5) <u>August 27, 2013 article in The Boston Globe by Peter Schworm and Matt Rocheleau titled, "Landlords call Boston's new fee plan intrusive, costly"</u> The Executive Director gave a bit of history to provide some perspective for this article.
- (6) <u>Planning Commission's Notice of Public Hearing on September 18, 2013 "Zoning Ordinance Amendments to BMC Title 23: Zoning for Emergency Shelters,</u>
 Transitional Housing, and Supportive Housing" In packet and self-explanatory.
- (7) August 27, 2013 summary report of the NAACP-sponsored "Town Hall Meeting" in July 2013 Chair Stephens said that, though many of the issues cited in this report are outside the Board's purview, she felt that the housing-related comments in the report were sound. In an effort to address the report's comment that there should be more low-income members on the Rent Board, the Chair suggested that those Commissioners who were willing could submit their annual household income to the Executive Director. This information would be used to calculate an amalgamated average (no financial information about a specific Commissioner would be identified) and this data could be given to the NAACP to provide them a better understanding of their representatives' income levels. The Chair stressed that providing this information was completely voluntary.
- (8) <u>September 8, 2013 Daily Cal article by Alison Fu titled, "Berkeley City Council to</u> reassess affordable housing fee" (Executive Director) In packet and self-explanatory.
- (9) "Green Your Apartment!" flyer from Multifamily SWEEP (Solid Waste and Energy Efficiency Program) regarding free services for eligible Berkeley tenants (Executive Director) In packet and self-explanatory.

- (10) September 10, 2013 SFGate.com article by Henry K. Lee titled, "USF media professor dies in Berkeley fire" The Executive Director said he included this article because it is all too easy in our discussions and efforts to craft policies that address the full spectrum of housing needs in our community to forget the people that rent control actually protects. He said that the Rent Board had done mediation with the gentleman that perished and with the property owner. The Executive Director also said that staff have been in contact with several of the tenants of this property and he will be in contact with the property owner.
- (11) <u>Update on September 10, 2013 Rent Board workshop: "Owning Rental Property in Berkeley"</u> The Executive Director said the event was attended by 44 property owners and, of the 19 evaluations that were submitted, the comments were very positive. Commissioner Hunt, who was also in attendance, added that she felt there should be more time allowed for attendees to ask questions about the presentation, even if that means having a follow-up session; she asked that staff continue to look into other options, including other venues, that might allow more flexibility in terms of scheduling these events.
- (12) <u>Announcement of September 18th Rent Board seminar: "Tenants Rights and Responsibilities"</u> (Executive Director) In packet and self-explanatory.
- (13) <u>Rent Board Resolution 13-13 Authorizing the Executive Director to Enter Into and Execute a Five-Year Lease Extension with the 2001 Center Group for Office Space at 2001 Center Street in Berkeley</u> (Chair Stephens) In packet and self-explanatory.
- b. <u>Updates and Announcements regarding Committee/Board Meetings</u>
 - (1) <u>Budget and Personnel</u> Committee Chair Stephens said the Committee met recently and the primary item was the Executive Director's contract. She said the Committee hopes to come back in October and discuss this in Closed Session with the full Board. She also announced that the Program will have a new staff person starting in a few weeks.
 - a. September 13th agenda
 - (2) <u>Outreach</u> Committee Chair Webster said the Committee has met every month, with the exception of July where they did not have a quorum. She highlighted some of the Committee's recent work.
 - a. June 14th minutes
 - b. July 19th agenda Meeting cancelled due to lack of a quorum
 - c. August 23rd agenda
 - (3) <u>IRA/AGA and Habitability</u> Committee Chair Stephens said the Committee met and took action on the Annual General Adjustment which will be before the full Board in October.

- a. September 13th agenda
- (4) Eviction/Section 8/Foreclosure Committee Chair Harr said that, in addition to the Measure Y report, the Committee has been looking into protections for tenants in owner move-in and Ellis Act evictions. She said the Committee's next meeting will be the second Friday of October (October 11th) at 1:00 p.m.
 - a. July 12th minutes
 - b. August 1st minutes
 - c. September 6th agenda
- (5) <u>Safe & Sustainable Housing</u> Committee Chair Townley said that, in addition to the Committee's work on Phase II of the Soft Story Ordinance, he plans to attend the October meeting of the Housing Advisory Commission to discuss disaster preparedness for tenants in multi-family buildings.
 - a. May 2nd minutes
 - b. August 29th agenda Meeting cancelled due to lack of a quorum
 - c. September 4th agenda
 - d. September 4th minutes
 - e. September 11th agenda
- (6) Waivers Committee
- (7) Ad Hoc Committee on Smoke-Free Housing
- (8) 4 x 4 City Council/RSB Housing Committee
- (9) Future Special Meetings
- c. <u>Discussion of items for possible placement on future agenda</u>
 Commissioner Townley requested that the August 27, 2013 summary report of the NAACP-sponsored "Town Hall Meeting" in July 2013 be an item on the Board's next agenda.

Commissioner Soto-Vigil said that the HAC passed a revision to the mold and mildew ordinance that they want to submit to City Council, and he'd like the Rent Board to vet it first. It was agreed that this should go to the IRA/AGA/Habitability Committee first for review.

7. <u>Adjournment</u> M/S/C (Soto-Vigil/Townley) ADJOURN THE MEETING IN HONOR OF THE FALLEN RESISTANCE FIGHTERS IN THE MEXICAN WAR OF INDEPENDENCE, AND IN HONOR OF FORMER UDC LAW PROFESSOR WILLIAM G. MCLAIN, III WHO RECENTLY PASSED AWAY. Carried: 8-0-0-1. ABSENT: Blake.

The meeting was adjourned at 9:28 p.m.

RSB Minutes Monday, September 16, 2013 Page 8