

**Minutes of the Regular Meeting of the
Rent Review Advisory Committee
Monday August 6, 2018**

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 6:31 P.M.

Present were: Chair Cambra; Vice Chair Sullivan-Cheah (formerly Sullivan-Sariñana); Members Friedman, Murray, and Griffiths

Absent: None

Program staff: Grant Eshoo, Gregory Kats

City Attorney staff: John Le

2. AGENDA CHANGES

a. Motion and second to move Agenda Item 7-C to be heard first, and move each item of New Business down one place (Member Friedman and Vice Chair Sullivan-Cheah). Passed 5-0.

b. Motion and second to move Agenda Item 7-B to be heard second (Vice Chair Sullivan-Cheah and Member Murray). Motion to move 7-B to be heard first, and move each other item down one place (Vice Chair Sullivan-Cheah and Member Friedman). Passed 5-0.

3. STAFF ANNOUNCEMENTS

a. Staff announced that two hearing dates were scheduled in August, two in September, and perhaps two in October.

4. PUBLIC COMMENT, NON-AGENDA ITEMS, NO.1

a. Angie Watson-Hajjem spoke about ECHO Housing's fair housing, landlord-tenant, and mediation services.

5. CONSENT CALENDAR

a. Motion to approve the minutes of the July 2, 2018 Regular Meeting (Chair Cambra and Vice Chair Sullivan-Cheah). Motion passed 4-0, with one abstention (Member Friedman).

6. UNFINISHED BUSINESS

a. None.

7. NEW BUSINESS

7-B. CASE 1055 – 2157 San Jose Ave., Unit B

Tenant: Michelle Rae Grey & LaVar Douglas Grey, present

Landlord: Lisa Fowler, absent

Proposed rent increase: \$95.00 (4.9%), effective July 1, 2018

No Committee review. The tenants were present at the hearing but the landlord was not. The rent increase notice is therefore void, and the landlord may not increase the tenants' rent for at least 12 months from the effective date of this increase.

7-C. CASE 1058 – 1540 Court St.

Tenant: Holly Harrison, present

Landlord: David Armitage, owner, present, and attorney Clifford Fried, present

Proposed rent increase: Month-to-month offer: \$1,800.00 (75.0%)

Lease offer: \$2,100.00 (87.5%)

Effective September 1, 2018

Mr. Fried stated that the owner flew in from Florida to participate in the hearing because his participation in the process is mandatory, even though the property is a single family residence, which is exempt from rent control. Mr. Fried stated that the legality of the requirement for a landlord to participate is questionable. He said that Mr. Armitage is looking to obtain a fair rate of return on his investment. He said that the landlord is retired from the U.S. Navy, and was previously stationed in Alameda when he purchased his home, and has kept the house as a rental since then. Mr. Fried went on to say that no one tells grocery stores what to charge for a loaf of bread, or doctors to charge their patients or Walgreens to charge for their products. He said there is an item on the November ballot to repeal Costa Hawkins, which exempts certain units such as the one in question, but until then, the landlord had a right to charge market rates like other businesses do. He added that even with this proposed rent increase, the landlord believes the rent is still below market rate.

Ms. Harrison stated that the landlords were friendly, but that as a result of the increase, her family would have to move. She said she brings home \$2,152.26 biweekly, and the increase would mean that all of her salary would be going toward rent. She said she did not understand the rent review process. Chair Cambra told her she may share her perspective on the increase. She said she had doubts that the landlord's costs of operation, such as his mortgage, were going up at the rate he was increasing the rent. She said she did research on other market rate rents for comparable units and found a similar unit for rent for only \$3,100 which she would consider moving to.

Member Murray explained that the Committee's intent is to create a forum to mediate between the parties, even where the decision is non-binding.

Ms. Harrison stated that her rent had been increased twice, but one of the increases was rescinded before this latest increase. She said that she would like to stay in Alameda four more years because of her daughter, before moving back to Washington State, where the cost of living was more affordable.

Chair Cambra asked if Mr. Fried had a response to Ms. Harrison's comments. Mr. Fried said that if the landlord doesn't get this increase, he would have to sell the property. Mr. Armitage said that he had raised the rent \$400 in October 2017 and tenants agreed, but subsequently learned there was an Ordinance. He said that upon contacting Mr. Fried's firm, he learned that the increase was improper and was advised to rescind and the increase and refund the excessive amounts charged under it, which he did.

Vice Chair Sullivan-Cheah asked Mr. Armitage how he came to the increase amounts he did. Mr. Armitage replied that he did research to see what the market rate was for comparable units and decided he wanted to raise it to market value in anticipation that Costa Hawkins may be overturned. He said he was concerned that if that law was overturned, he may be stuck with below market rate rent forever. Mr. Armitage said that he had just retired and did not have as much money coming in as he used to when he was working.

Chair Cambra asked if the possible Costa Hawkins repeal was the main reason he was asking for the increase, and Mr. Fried said it was the impending reason, but the long-term reason was to ensure the landlords could obtain adequate rental income in their retirement.

Member Friedman said that even though they could not render a binding decision, the Committee still had a responsibility to stabilize the rental market and see if they might help families like Ms. Harrison's stay in the community. He questioned the level of urgency to raise the rent that Mr. Fried provided, and wondered if there was room to come to an agreement where everyone's needs were met.

Mr. Fried said he would counsel his client to raise the rent now before any impending legislation takes effect. Chair Cambra asked if the repeal of Costa Hawkins would change local rent control laws beyond making exempt units nonexempt.

City Attorney's Office staff said that it would not be self-executing; most cities would have to make amendments, as it is not as though rent control would immediately kick in after repeal.

Member Murray further explained the intention of the Ordinance and the Committee. Ms. Harrison said she found rents on comparable homes starting in the low \$3,000s and said they were looking for the least expensive way to attain housing accommodations.

Member Murray further clarified that the Committee would be looking to see if a compromise or agreement could be made.

Mr. Fried said that he would never advise his client to lower the rent, and suggested it was in the tenants' best interests to move somewhere with lower rent. He said only Santa

Monica and Berkeley would not need to amend their ordinances if Costa Hawkins was repealed.

City Attorney's Office staff clarified that the Ordinance does not prevent the parties from coming to mutual agreements outside the rent review process.

Vice Chair Sullivan-Cheah asked Mr. Armitage if he had improved the home. Mr. Armitage said he had redone some plumbing and worked on the carport. He said he had told Ms. Harrison's husband to tell him if anything needed to be done. Ms. Harrison said that they never ask for anything from their landlord.

Vice Chair Sullivan-Cheah stated that having a long-term tenant who is willing to pay a substantial rent increase, even if it's not what the landlord is looking for, may be something the landlord would want to consider.

Member Friedman asked Ms. Harrison why she did not submit a statement. She said she did not understand the process or the Committee.

Member Murray asked Ms. Harrison if a postponement of the effective date of the increase until September would be advantageous to her, and she said it would be.

Mr. Fried responded that he would never advise his client to postpone rent increases, because he thought it might put his client at a disadvantage if any court proceedings were required, such as an unlawful detainer further down the road. He said that the parties were doing fine before they came here, and parties could always come to fair agreements without rent control measures. He added that the rules in court are rigged against the property owner.

Member Friedman asked what appeal options were available to the parties. City staff clarified that the appeal process for a nonbinding decision was a request to have City Council review.

Vice Chair Sullivan-Cheah said he would not vote for what the landlords were asking for as he did not feel the landlords had demonstrated a need for the rent increase, e.g., they did not show documentation of income or expenses. He said that even though the tenant did not provide a written response, she did provide detailed financial information during the hearing that showed a financial burden, which he would take into account.

Member Murray said that she believed that the landlord had a genuine concern to obtain a rent increase prior to an impending law that would affect how much he could charge, which would not only affect his retirement income, but also the value of the property itself. She said she also saw the stress the increase put on the tenants and would like to see a deferment or temporarily decreased amount to allow them more time to adjust,

especially with the school year starting. She raised the possibility of moving the effective date from September 1 to November 1.

Member Friedman said he believes the rental business is a different kind of business than many other businesses, and the community should have a say in what can be charged. He said he thought a \$540 increase to \$2,940 was reasonable. He explained this would be 5% above the \$2,800 that the tenants agreed to pay last year before that increase was rescinded.

Member Murray suggested that since the tenant said she would be able to move to a unit charging \$3,100 rent, an increase to \$3,100 would be reasonable, and again posited whether a delay in the effective date would be appropriate.

Member Griffiths suggested a stepped increase that may allow the tenants to stay longer, and bring the landlord up to a higher base rent in the long run.

Vice Chair Sullivan-Cheah stated that he thought the \$2,940 total rent suggested by Member Friedman was fair, while acknowledging it was a large increase.

Chair Cambra said he thought Member Friedman's suggestion of a \$540 increase was reasonable, proposing perhaps a \$400 increase now and a \$140 increase later.

Motion and second to increase the rent \$540 starting September 1, 2018 (Member Griffiths and Vice Chair Sullivan-Cheah).

Member Murray added that she thought the landlord's position to raise the rent now was reasonable, both as supplemental retirement income and before a potential change in the law could change his rights to raise the rent later.

Member Friedman noted that the Ordinance does not entitle landlords to obtain market rate rent, but to keep up with operating costs.

Member Murray responded that fair rate of return was difficult to define.

Vote for \$540 increase effective September 1, 2018. Motion passed 3-2.

7-A. Committee will consider and vote on Chair and Vice Chair

Member Griffiths nominated Member Murray to be Chair. She declined, stating she does not know the rules to operate Committee meetings well enough at this time.

Motion and second to nominate Chair Cambra to remain Chair (Members Friedman and Murray). Motion passed 5-0.

Vice Chair Sullivan-Cheah nominated himself to remain Vice Chair.

Member Murray nominated herself for Vice Chair. The Committee members discussed and decided that the vote did not need a motion.

Members Griffiths and Murray, and Chair Cambra voted for to make Member Murray the new Vice Chair.

7-D. CASE 1059 – 1845 Poggi St., Apt. D226

Program staff informed the Committee that the case was being rescheduled for administrative reasons.

7-E. CASE 1061 – 1861 Poggi St., Apt. B305

Program staff informed the Committee that the case was being rescheduled for administrative reasons.

7-F. CASE 1062 – 1843 Poggi St., Apt. C301

Program staff informed the Committee that the case was being rescheduled for administrative reasons.

7-G. CASE 1063 – 1825 Poggi St., Apt. A311

Program staff informed the Committee that the case was being rescheduled for administrative reasons.

7-H. CASE 1064 – 1845 Poggi St., Apt. D203

Program staff informed the Committee that the case was being rescheduled for administrative reasons.

7-I. CASE 1066 – 1825 Poggi St., Apt. A307

Program staff informed the Committee that the case was being rescheduled for administrative reasons.

7-J. CASE 1067 – 1845 Poggi St., Apt. D318

Program staff informed the Committee that the case was being rescheduled for administrative reasons.

7-K. CASE 1068 – 1825 Poggi St., Apt. A206

Program staff informed the Committee that the case was being rescheduled for administrative reasons.

7-L. CASE 1070 – 768 Eagle Ave., Upstairs Unit

No Committee review. Prior to the RRAC hearing, the tenant and landlord came to an agreement regarding the amount of the rent increase. Program staff informed attendees that details of agreements reached prior to being reviewed by the Committee could be

found in the Rent Stabilization Program's monthly reports, which are posted monthly on the Program's website, www.alamedarentprogram.org.

Chair Cambra requested the details of the resolution. Staff said staff did not have the details available. Chair Cambra requested the details of the resolution be put on a future agenda.

7-M. CASE 1026.2 – 768 Eagle Ave., Downstairs Unit

No Committee review. Prior to the RRAC hearing, the tenant and landlord came to an agreement regarding the amount of the rent increase. Program staff informed attendees that details of agreements reached prior to being reviewed by the Committee could be found in the Rent Stabilization Program's monthly reports, which are posted monthly on the Program's website, www.alamedarentprogram.org.

Chair Cambra requested the details of the resolution. Staff said staff did not have the details available. Chair Cambra requested the details of the resolution be put on a future agenda.

8. PUBLIC COMMENT, NON-AGENDA ITEMS, NO. 2.

a. None.

9. MATTERS INITIATED

a. None.

10. ADJOURNMENT

The meeting adjourned at 8:24 p.m.

Respectfully Submitted,

RRAC Secretary
Grant Eshoo

Approved by the Rent Review Advisory Committee on September 5, 2018