

**Minutes of the Regular Meeting of the
Rent Review Advisory Committee
Monday, February 4, 2019**

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 6:45 p.m.

Present: Chair Murray; Vice Chair Sullivan-Cheah; Member Chiu

Absent: Member Johnson

Program staff: Gregory Kats; Samantha Columbus

City Attorney staff: None

Staff called roll of case participants. All parties were present.

2. AGENDA CHANGES

None.

3. STAFF ANNOUNCEMENTS

None.

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

Angie Watson-Hajjem from ECHO Housing provided information on ECHO's fair housing and landlord-tenant services.

5. CONSENT CALENDAR

5-A. Approval of the minutes of the November 7, 2018 regular meeting

Motion and second to approve the minutes (Chair Murray and Vice Chair Sullivan-Cheah). Motion passed 3-0.

5-B. Approval of the minutes of the December 17, 2018 special meeting

Motion and second to approve the minutes (Chair Murray and Vice Chair Sullivan-Cheah). Motion passed 3-0.

6. UNFINISHED BUSINESS

None.

7. NEW BUSINESS

7-A. Discussion of memo from CAO to RRAC

Vice Chair Sullivan-Cheah asked staff how they present the Rent Stabilization Program's policy on confidentiality to RRAC participants. Staff replied that participants are informed that their submissions become public record.

Chair Murray raised concerns about how Committee members would address and communicate with participants if certain information, such as tenants' names, were redacted, and whether the landlords' information should also be redacted.

Member Chiu voiced a concern that Committee members would be unable to disclose conflicts of interest if they weren't informed of participants' names.

Vice Chair Sullivan-Cheah noted that the confidentiality rules proposed in the memo would make it difficult for the Committee to refer back to prior cases in future meetings, as is sometimes desirable.

Staff informed the Committee that staff would take the concerns discussed back to the CAO for further consideration.

The Committee tabled further consideration of the confidentiality memo to a future RRAC meeting.

7-B. Case 1198 - 434 Central Ave., Apt 301

Tenants: Tristen Schmidt and Thomas Waters

Landlords: Mayra Mizrachi, Chief Operating Officer; Juan Velazquez, Regional Manager; Veronica Rodriguez, Community Manager

Proposed rent increase: \$107.50 (5.0%), to a total rent of \$2,260.00, effective January 1, 2019

Ms. Mizrachi began by asking whether both of the tenants present were lawful occupants as only Mr. Waters was on the lease. Mr. Waters replied that Ms. Schmidt was his wife. Ms. Schmidt added that they had lived together in the unit since March 2015. She said that previous landlords knew them by name and felt it said a lot about the current landlords that they did not even know that she lived in the apartment.

Ms. Schmidt stated that she was a victim of fraud in late 2018 which had caused several financial hardships for them and made it hard for her and Mr. Waters to pay December's rent, although they did pay it. She said they had to borrow money and ask for advances to cover it, even though they did not have hot water for a period of time, and the elevator was often not operable. She said that they had lived in Alameda for 22 years. Mr. Waters stated that although he was retired, he still had to work part-time to be able to afford general living and medical expenses. He said that his income did not

increase 5%, making it hard to afford a 5% rent increase, as their budget was already tight.

Ms. Mizrachi stated that this property had 53 units and was acquired by the current owner in 2007. She said the building's income was about \$1,000,000 per year, with annual operating costs of about \$475,000 and a debt service of about \$485,000, which did not leave much profit left for the owner. She said the building had a 10% monthly vacancy rate, the owner was required to have a reserve, and the owner was currently facing a deferred maintenance issue that would cost about \$150,000 that would deplete the reserve of \$100,000. She stated that the tenants did not receive a rent increase in 2018 and responded to the tenant's maintenance concerns by stating that she had reviewed the owner's records and found no outstanding maintenance issues for the building. She said that they had done work on the elevator and it was currently functioning and added that maintenance issues were taken care of within 24-48 hours.

Mr. Waters replied that the elevator had not been running properly for several months, and he received no reduction in rent for the decreased service. He again voiced concern that rent increases continued to outpace increases in his income. He pointed out that the landlord owned another property from which they also received income and said that since their tenancy began their rent had increased by 19.48%.

Ms. Mizrachi replied that the owner owns property at 935 Santa Clara, but that building was currently vacant because they had to relocate some tenants and others moved out so the owner could do plumbing and electrical work there. She said the owner ran at a loss of \$87,000 last year on that building and had to continue paying a mortgage on it, adding that the owner was waiting for the issuance of permits to continue some of the needed work there. She said that in 2016 the tenants received an 8% rent increase, and a 5% increase in 2017.

Member Chiu noted that the tenants had indicated on their paperwork that they believed no rent increase was reasonable this year, and the tenants confirmed that this was a position they wished to maintain.

Member Chiu asked the tenants if there were any outstanding maintenance issues and they replied that there was a leak in the bathroom sink. The tenants said that the leak was still not fixed even after management sent someone into the apartment without providing them notice.

Member Chiu asked the tenants if they reported the elevator not working and they replied that both they and other tenants did. Ms. Schmidt added that there is a disabled tenant in the building who needs the elevator and that this issue was not resolved in a timely matter.

Chair Murray asked the tenants if there was a formal way to report maintenance issues and they replied that there was not, and that they usually text the manager to make reports.

Member Chiu asked the tenants if they could again explain why the proposed increase caused a financial hardship. Mr. Waters replied that they had just enough income to pay the bills and sometimes they had to juggle their financial obligations and defer payments to make sure all bills got paid. They added that the bank fraud they experienced had greatly contributed to their financial hardship, as it froze their accounts and interfered with their direct deposits. The tenants said they felt that rent should not account for half of their income. Mr. Waters said he receives a pension and works two part-time jobs to make ends meet. Ms. Schmidt stated she works as a babysitter and does a lot of unpaid volunteer work in the community.

Chair Murray asked the landlords if there was a formal system to report maintenance issues. Ms. Rodriguez replied that there is an online system where tenants could file maintenance requests, and they could also call, text, or drop into the management office. Chair Murray asked what the management office hours were, and Ms. Rodriguez replied the office is open Monday-Saturday from 9:00 a.m. until 6:00 p.m. Ms. Rodriguez added that she always returned messages and phone calls within 48 hours. She said she takes the stairs and therefore would not know whether the elevator worked unless someone reports it. She said the building's elevator is the original one, which was installed in 1965, and therefore came with maintenance challenges, but management always tried to keep it running smoothly. She added that all tenants were sent an email and text informing them of the new online system to report maintenance issues. The tenants replied that they did not receive these communications. Chair Murray suggested that management should work with tenants to ensure they knew how to report maintenance issues and use the online portal.

Vice Chair Sullivan-Cheah asked how the rent increase was calculated. Ms. Mizrachi replied that management sought annual increases of 5% or less to keep in line with the City's rent stabilization ordinance. Vice Chair Sullivan-Cheah pointed out that the City does not have a cap on rent increases, but a process that is triggered when the rent increase is above 5%, adding that tenants may request review of increases of any amount.

Vice Chair Sullivan-Cheah asked why management did not raise the rent in 2018, and Ms. Mizrachi replied that the landlord was auditing their records and wanted a full picture of their finances before requesting a rent increase. He asked what expenses had increased at the property other than the deferred maintenance issues, and Ms. Mizrachi replied that the owner had a mortgage on the property, its largest expense, as well as regular maintenance and management costs. She stated that the deferred maintenance required was a roof replacement. Vice Chair Sullivan-Cheah asked if they were getting

bids on the roof and Ms. Mizrachi replied that they were, and that the highest bid submitted thus far was \$160,000.

Vice Chair Sullivan-Cheah asked the tenants what utilities were included in the rent. The tenants replied that water and garbage were included and they paid PG&E separately. He asked if they had onsite parking, and they replied that they had one parking space. He asked if there was anyone else living in the unit and they stated that their son also lives in the unit, but he was not able to work or contribute monetarily as he was 14 years old.

Chair Murray asked the tenants about the condition of the unit when they moved in and Ms. Schmidt said the unit was in fair condition. Mr. Waters said that the carpet was clean and that the unit had an expected amount of wear-and-tear given the unit's age. Chair Murray asked if there was currently anything in the apartment that needed maintenance other than the leak that was discussed, and the tenants replied that there were not currently any other maintenance issues.

Chair Murray asked the tenants what effect the proposed rent increase would have on them. They said the increase already went into effect January 1, and that they would have to make it work. Chair Murray asked what kind of effect it would have on their budget, and Mr. Waters replied it put an increased burden on them. Ms. Schmidt added that the increase would have the effect of increasing their credit card debt. They added that their son attended high school in Alameda and they did not want to have to move so they would make sacrifices in order to stay, if need be.

Member Chiu asked the landlords if they had talked to the tenants prior to the hearing and the landlords said they had not.

Vice Chair Sullivan-Cheah asked the landlords if all their tenants had received a comparable rent increase, and Ms. Mizrachi replied that all tenants received an increase around 4.9% above their base rent.

Chair Murray asked if the landlords had learned anything new during the hearing that would make them want to modify the amount of their rent increase request. Ms. Mizrachi replied that she felt that the amount requested was fair and that their rents were in the low- to-mid-range for comparable units. Mr. Velazquez added that the landlord had a lot of expenses and felt the increase request was reasonable.

Chair Murray asked if the tenants had learned anything new during the hearing. Ms. Schmidt said that their unit was without hot water for over 24 hours. She expressed concern over how the landlord spent money on the property, e.g., hiring landscapers instead of having the managers doing the gardening by themselves. She again expressed their concern that wages did not keep pace with rent increases. Mr. Waters

stated that the increase would burden his household more than it would benefit the owners.

The participants took their seats and the Committee began deliberations.

Member Chiu asked for clarification that the Committee's decision would be non-binding and program staff confirmed this was correct.

Member Chiu expressed frustration that the parties did not communicate with each other regarding the increase prior to the hearing. Chair Murray replied that program staff offers all participants the opportunity to mediate, but that the parties did not agree to do so.

Vice Chair Sullivan-Cheah noted that the Rent Stabilization Ordinance excludes the landlord's mortgage payment as a cost of operation that the Committee could consider. He pointed out that many landlords request increases of 4.9% or 5% in order to evade being subject to a binding Committee decision. He said he did not believe the amount requested was unreasonable but also noted that it was a lot of money. He posited whether the Committee could consider the landlord's expenses at another property as a basis for requesting increases the subject property.

Chair Murray replied that she thought that the operating costs of the particular subject property were the only costs that the Committee should consider in this case, and not expenses at other buildings that may be owned by the same landlord.

Member Chiu said he did not hear the landlord bring up a lot of extraordinary expenses at the subject building and thought an increase lower than the current request would be reasonable.

Chair Murray opined that the business of providing housing was different than other types of for-profit businesses, and this difference was an important consideration that allows for regulations such as the rent stabilization ordinance in-place in Alameda. She said that although she understood the landlord was running a business, she was concerned that the landlords seemed to not acknowledge the impact and hardship the increase would have on the tenants. She said she thought an increase of 4.9% lent itself to being seen as a way for landlords to skirt a binding decision and squeeze the maximum amount out of their tenants.

Motion and second for a \$0.00 increase for January and February 2019, followed by an increase of \$50.00 from March through February 2020 (Member Chiu and Vice Chair Sullivan-Cheah). Motion failed 2-1.

Chair Murray pointed out that the tenants had already paid the rent increase for January and February 2019.

Motion and second for a \$0.00 increase for March and April 2019, followed by an increase of \$50.00 from May 2019 through February 2020 (Chair Murray and Vice Chair Sullivan-Cheah). Motion passed 3-0.

7-C. Case 1200 - 434 Central Ave., Apt 111

Tenants: Patricia and Apolonio Ramos

Landlords: Mayra Mizrachi, Chief Operating Officer; Juan Velazquez, Regional Manager; Veronica Rodriguez, Community Manager

Proposed rent increase: \$104.00 (5.0%), to a total rent of \$2,203.00, effective January 1, 2019

Ms. Ramos stated that they moved into the building in June 2017, and noticed the people that moved in after them were paying less rent for comparable units. She said that they are the highest-paying tenants at the property and their unit was only about 650 square feet. She said they have had cockroaches for over a year and management had not fixed the problem, only putting down two glue sticks which did not help. She said after requesting RRAC review, management installed two more glue sticks and scheduled fumigation for a later date. Ms. Ramos stated that her key to the pool and fitness room did not work for a year, which prevented her and Mr. Ramos from using the facilities during that time. She said she texted management to get a key but management did not provide her with a key until after she requested RRAC review. She told the Committee that they were both on fixed incomes – Mr. Ramos currently received \$1,975 monthly from Social Security and she currently received \$579 monthly from working, bringing their household income to \$2,554 per month. A rent of \$2,203, she pointed out, leaves them with \$301 to pay the rest of their bills, including PG&E. She added that they also spent \$500 per month on medication for Mr. Ramos. Ms. Ramos said they had requested voluntary mediation regarding the rent increase but the landlords refused to mediate.

Ms. Rodriguez responded that management evaluated the cockroach problem and determined that the glue sticks were sufficient to treat the problem and did not know the problem was ongoing. She added that she provided the tenants with a key to the fitness room and pool shortly after they had requested one. She said that management had offered move-in specials to some new tenants which may account for the differences some tenants were paying versus others.

Mr. Ramos disclosed additional maintenance and service concerns – a lack of insulated windows, a leaking door, old appliances, and no microwave. He said that adjacent apartments pay less for even though they have new appliances and microwaves. Ms. Mizrachi said she was not aware that the unit was not renovated and she would like to learn more about why their unit did not seem to be renovated after the hearing.

Ms. Mizrachi said that their attorney counseled them to not agree to voluntary mediation. Mr. Velazquez added that the reason they did not agree to mediation was in order to treat all tenants fairly and equally. He explained that if they mediated with one tenant they would have to agree to mediate with all tenants.

Chair Murray asked the landlords how they determined what rate to charge for a given unit, and Ms. Rodriguez explained that they looked at comparable units in the area to see what they were charging to make the determination.

Member Sullivan-Cheah asked the tenants if they knew about the online portal for filing maintenance requests. Ms. Ramos said she did not receive any notification that the online system existed and said she did not get many emails that the landlords claim to have sent. Mr. Velazquez asked the tenants to verify that management had their correct email address on file.

Ms. Rodriguez said she found it suspicious that the tenants brought up maintenance concerns only after the management requested a rent increase. Chair Murray replied that what the Committee has often heard from tenants is that they can be afraid to ask their landlords for repairs and maintenance because they fear it may trigger a rent increase. She explained that was a possible reason why these issues may not come up until the landlord requests a rent increase.

Vice Chair Sullivan-Cheah confirmed with the landlords that they were not committing to making repairs but were intending to look into the issues raised by the tenants during the hearing, and Ms. Mizrachi said that was her intention.

The participants took their seats and the Committee began deliberations.

Vice Chair Sullivan-Cheah voiced concern that the owner did not seem to know about the maintenance issues going on at the property, and did not feel that the matter of treating tenants equally was a concern that carried much weight with the issues raised by the tenants.

Member Chiu expressed concern that the management did not seem to be adequately hearing the concerns of the tenants.

Motion and second for a \$0.00 increase from January through December 2019 (Vice Chair Sullivan-Cheah and Member Chiu). Motion passed 3-0.

7-D. Case 1201 – 1506 Lincoln Ave., Apt. A

No Committee review. The Committee did not have time to call this case. It will be continued to a meeting on March 4, 2019.

7-E. Case 1203 – 553 Pacific Ave., Apt. D

No Committee review. The Committee did not have time to call this case. It will be continued to a meeting on March 4, 2019.

8. PUBLIC COMMENT, NON-AGENDA ITEMS, NO.2
None.

9. MATTERS INITIATED

Chair Murray and Vice Chair Sullivan-Cheah noted that the Rent Stabilization Program's online workshop presentation needed to be updated to reflect the change in the amount of time allotted to each party under the Committee's newly-adopted bylaws.

10. ADJOURNMENT

The meeting adjourned at 9:14 p.m.

Respectfully Submitted,

Draft Until Approved

RRAC Secretary
Grant Eshoo