

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
 FULL BOARD MEETING  
 April 13, 2023  
 7:00 P.M.  
 CITY HALL  
 1 FRANK H. OGAWA PLAZA, HEARING ROOM #1  
 OAKLAND, CA 94612**

**MINUTES**

**1. CALL TO ORDER**

The Board meeting was administered in-person by B. Lawrence-McGowan from the Rent Adjustment Program (RAP), Housing and Community Development Department. B. Lawrence-McGowan explained the procedure for conducting the meeting. The HRRRB meeting was called to order by Chair Ingram at 7:05 p.m.

**2. ROLL CALL**

<b>MEMBER</b>	<b>STATUS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
R. NICKENS, JR.	Tenant	X*		
D. WILLIAMS	Tenant	X		
J. DEBOER	Tenant Alt.			X
M. GOOLSBY	Tenant Alt.			X
D. INGRAM	Undesignated	X		
C. OSHINUGA	Undesignated	X		
E. TORRES	Undesignated		X	
M. ESCOBAR	Undesignated Alt.			X
Vacant	Undesignated Alt.			
D. TAYLOR	Landlord	X		
Vacant	Landlord			
Vacant	Landlord Alt.			
K. SIMS	Landlord Alt.			X

\*Member Nickens left the meeting at 7:40 pm

**Staff Present**

Kent Qian	Deputy City Attorney
Marguerita Fa-Kaji	Senior Hearing Officer (RAP)
Briana Lawrence-McGowan	Administrative Analyst II (RAP)

**3. WELCOME NEW BOARD MEMBERS**

- a. Newly appointed Board members, DéSeana Williams and Demitri Taylor were introduced and welcomed by staff and fellow Board members.

**4. PUBLIC COMMENT**

- a. No members of the public spoke during public comment.

**5. CONSENT ITEMS**

- a. Approval of Board Minutes, 3/23/2023: Member D. Williams moved to approve the Board Minutes from 3/23/2023. Vice Chair Oshinuga seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, C. Oshinuga, D. Taylor, R. Nickens, D. Williams  
**Nay:** None  
**Abstain:** None

The minutes were approved.

**5. APPEALS\***

- a. T22-0124, Benafield v. Equity Avg. LLC

Appearances: Andrew Zacks Owner Representative  
Kevin Benafield Tenant

This case involved an owner appeal related to a decreased housing services claim decision. The Hearing Officer granted some decreased housing services claims. The Hearing Officer also found that the owner illegally passed through garbage charges to tenant, in violation of the Oakland regulation rule on splitting utilities. The owner appealed the decision, arguing that 1.) waste management bills were charged separately for each unit and attached new evidence with quarterly bills for each unit; and 2.) because the waste management bills were addressed the owner, the Hearing Officer assumed that the owners were dividing the bill, while in fact waste management was individually billing by each unit. The following issue was presented to the Board:

- 1.) Does substantial evidence support the Hearing Officer’s conclusion that charging for garbage collection by the owner violated the rent regulations prohibition on splitting utilities?

The owner representative contended that they believe there was an error made because the Hearing Officer determined that the property owner was not entitled to be reimbursed for garbage services that were provided to the tenant and had been provided to the tenant since the conception of the tenancy. The owner representative argued that prior to the current owner obtaining the property, the tenant had always paid for the garbage by paying the landlord. The owner representative contended that the prior landlord paid for the garbage, and after the landlord paid for the garbage services, it was then billed to the tenant. The owner representative argued that in this case, after the property owner purchased the property, there was some delay in billing the tenant for the garbage services, and at some point, a bill was sent, then this dispute arose over the garbage services. The owner representative contended that the reason they believe there was an error of law in this case is because the Hearing Officer relied on a rent board rule that provides that when you have shared utility services that are billed together, that you cannot pass through the costs of that utility to the tenant. The owner representative argued that there's no evidence for the Hearing Officer to find that there were shared utility services in this case, that each one of the units in this building receives a separate bill for garbage services—which is what previously occurred before the current ownership.

The owner representative contended that there is no basis for concluding that these are shared in any way and that it is undisputed that the tenant is responsible under the lease for this service. The owner representative argued that the lease is very clear, that the landlord is entitled to collect for all utilities and services, and that the landlord is not responsible for any of those services. The owner representative contended that the Hearing Officer misapplied the Oakland rent board rule and did not correctly analyze the facts, which were that there were separate bills for each unit—not shared bills, and there is no evidence whatsoever in this record that would allow for the application of the shared utility rule to this circumstance. The owner representative contended that they're urging the Board to remand the case back to the Hearing Officer for a new hearing to consider the facts in their entirety. The owner representative argued that the Hearing Officer should be ordered to reinstate the property owner's right to collect for the garbage services as is provided for by the lease and allowable under the Oakland rent board rules and regulations.

The owner representative contended there was a \$70 decrease in rent awarded for a failure to maintain landscaping at the property because there was a complaint made by the tenant that the grass had died and wasn't being watered—however, at the time, California had been suffering drought conditions, and most property owners in Oakland and Northern California were being urged not to water their lawns. The owner representative argued that they believe it's an incorrect policy decision to force a landlord to suffer a reduction in rent, when as the result of drought conditions, water was not being applied to a yard. The

owner representative contended that everyone had to share in the implications of being in a record drought and that the rule could have been applied differently. The owner representative urged the Rent Board not to require property owners to not be good stewards and not follow sound environmental policies.

The owner representative contended that perhaps there was some delay by the property owner when attempting to collect the garbage fee from the tenant and apologized on behalf of the property owner. The owner representative argued that the Board should follow the law and their own ordinance and regulations, and that the Hearing Officer did not make any findings that the payments were not being allowed as the result of a delay by the property owner. The owner representative apologized on behalf of the owner if there was miscommunication around the eviction notice.

The tenant contended that he and his family have lived at the property for 10 years. The tenant argued that prior to the current owner taking ownership, the owners paid the garbage, and then they paid it by an invoice provided by the previous property manager, as they assumed that they had to pay for it. The tenant contended that when the new owner took ownership, the owner started paying the garbage and they stopped receiving invoices for their unit. The tenant argued that they then received an invoice to pay the garbage for three years, and that they were confused because they assumed that the new owners were paying for the garbage. The tenant argued that the property manager admitted in the last hearing that he didn't get around to sending the invoices because of COVID. The tenant contended that there weren't just issues related to the garbage—the owners also stopped a lot of services, such as landscaping. The tenant argued that in July, the owner gave them a three-day notice to pay the garbage or get out after 10 years—and since they didn't know the law, they paid them. The tenant contended that they have paid their rent every single month on time, and it seems like the owner didn't agree with what the Hearing Officer decided, so they tried to get a new one. The tenant argued that they had to hire an attorney to stop the eviction notice.

The tenant contended that landscaping was previously done weekly, every single Friday, and that the property looked great; however, it doesn't now, and they are requesting for this service to be reinstated. The tenant argued that one of the issues that the Hearing Officer found is that they were entitled to reimbursement because of this. The tenant contended that the new owner bought the building, then discontinued a lot of services and it doesn't seem fair to the tenants. The tenant argued that the new owner began to pay for the garbage and the garbage invoices for their unit disappeared until they got the three-year bill and that they don't think this is fair.

After parties' arguments, questions to the parties, and Board discussion, Chair Ingram moved to remand the case back to the Hearing Officer on the limited

issue of the waste management charges and for the Hearing Officer to identify what evidence in the record was relied on and supported their finding that the waste management was split. Vice Chair Oshinuga seconded the motion. Vice Chair Oshinuga withdrew his second and made a friendly amendment to include that evidence in the record includes sworn testimony from the hearing. Chair Ingram accepted the amendment. Vice Chair Oshinuga seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, C. Oshinuga, D. Taylor, D. Williams  
**Nay:** None  
**Abstain:** None

The motion was approved.

b. L22-0057, Bajaj v. Tenants

Appearances: Anita Bajaj Owner

This case involved an owner petition for capital improvements. The owner's petition was dismissed due to owners' non-appearance at the Zoom hearing. The owner appealed the decision, arguing that they should receive a new hearing because they never received the Zoom invitation or remote hearing notice—despite requesting the Zoom invitation before the hearing date and on the hearing date. The following issue was presented to the Board:

1.) Was there a good cause provided by the owner for the owner's non-appearance at the hearing?

The owner contended that there was something wrong with the e-mail system around the time of the hearing. The owner argued that staff said that emails had been going to the wrong email inbox and argued that staff hadn't been responding to their emails. The owner contended that a staff person, Marvin Nettles, had been helping throughout the process since she was not getting information from the Hearings Unit. The owner argued that a notice was sent stating that there would be a hearing and that a Zoom link would be provided by the end of November 2022; but she never got that e-mail. The owner contended that mid-December, she asked Marvin what the status of her hearing was, and Marvin said that an e-mail had been sent and that she should have received it. The owner contended that he attached a copy to the email, but that was the first time she had received any notification that there was going to be a hearing and that the zoom meeting link would be sent via e-mail.

The owner argued that she immediately sent an e-mail to the Hearings Unit and asked for them to send the Zoom meeting link to both her and her assistant—however, they never got the e-mail. The owner contended that on the day of the hearing, they looked frantically for the Zoom link and couldn't find it, so she reached out to Marvin and various other people at the City. The owner argued that staff finally sent a Zoom meeting link—but it was provided 15-17 minutes after the hearing start time, so the personal meeting link didn't work. The owner contended that she is now getting regular emails from the Hearings Unit, and everything is working fine now—but for about six or seven months, there were issues. The owner contended that this was her second appeal submission because after the first submission she was not getting any e-mail responses. The owner requested for the Board to allow the hearing to continue.

After parties' arguments, questions to the parties, and Board discussion, Chair Ingram moved to remand the case back to the Hearing Officer for a full hearing, as there was good cause for the owner not to be present at the hearing. Member D. Williams seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, C. Oshinuga, D. Taylor, D. Williams

**Nay:** None

**Abstain:** None

The motion was approved.

**6. RESOLUTION TO RECOMMEND AMENDMENTS TO THE RENT ADJUSTMENT REGULATIONS**

- a. The Board discussed changes to the resolution to recommend amendments to the Rent Adjustment Regulations. Member D. Williams moved to postpone the agenda item to a future meeting. Vice Chair Oshinuga seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, C. Oshinuga, D. Taylor, D. Williams

**Nay:** None

**Abstain:** None

The motion was approved.

## **7. INFORMATION AND ANNOUNCEMENTS**

- a. Deputy City Attorney Kent Qian informed the Board that the CED Committee met on Tuesday to discuss the proposed phase-out and lifting of the eviction moratorium.
- b. Chair Ingram announced to the Board that there is another resolution being proposed to City Council by the City Administrator that would extend the local emergency as it relates to COVID and separate the local emergency from the eviction moratorium.

## **8. SCHEDULING AND REPORTS**

- a. Briana Lawrence-McGowan announced that there is a Special Panel Meeting scheduled for Thursday, April 20, 2023, and that the Full Board Meeting that was scheduled for Thursday, April 27, 2023, has been canceled. The following Full Board Meeting is scheduled for Thursday, May 11, 2023.

## **9. OPEN FORUM**

- a. No members of the public spoke during open forum.

## **10. ADJOURNMENT**

- a. The meeting was adjourned at 9:04 p.m.