

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING**

February 23, 2017

7:00 P.M.

**CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. CONSENT ITEMS
 - i. Approval of minutes, January 12, 2017
 - ii. Approval of draft decision in case:
 - a. T15-0576; Kellybrew v. Lewis
 - b. T15-0420; Sabrah v. Beacon
 - c. T15-0374 & T16-0175; Didrickson v. Dang
4. OPEN FORUM
5. OLD BUSINESS
 - i. Discussion and Possible Action on Amendments to Just Cause Regulations
6. NEW BUSINESS
 - i. Mayor Libby Schaaf: Discussion of Board Attendance
 - ii. Presentation of Plaques to Tyfahra Singleton and Beverly Williams
 - iii. Discussion and Possible Action on Board Attendance
 - iv. Election of New Board Officers
7. SCHEDULING AND REPORTS
8. ADJOURNMENT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2017 FEB 15 AM 11:22

Accessibility. The meeting is held in a wheelchair accessible facility. Contact the office of the City Clerk, City Hall, One Frank Ogawa Plaza, or call (510) 238-3611 (voice) or (510) 839-6451 (TTY) to arrange for the following services: 1) Sign interpreters; 2) Phone ear hearing device for the hearing impaired; 3) Large print, Braille, or cassette tape text for the visually impaired. The City of Oakland complies with applicable City, State and Federal disability related laws and regulations protecting the civil rights of persons with environmental illness/multiple chemical sensitivities (EI/MCS). Auxiliary aids and services and alternative formats are available by calling (510) 238-3716 at least 72 hours prior to this event.

Foreign language interpreters may be available from the Equal Access Office (510) 239-2368. Contact them for availability. Please refrain from wearing **strongly scented products** to this meeting.

Service Animals / Emotional Support Animals: The City of Oakland Rent Adjustment Program is committed to providing full access to qualified persons with disabilities who use service animals or emotional support animals.

If your service animal lacks visual evidence that it is a service animal (presence of an apparel item, apparatus, etc.), then please be prepared to reasonably establish that the animal does, in fact, perform a function or task that you cannot otherwise perform.

If you will be accompanied by an emotional support animal, then you must provide documentation on letterhead from a licensed mental health professional, not more than one year old, stating that you have a mental health-related disability, that having the animal accompany you is necessary to your mental health or treatment, and that you are under his or her professional care.

Service animals and emotional support animals must be trained to behave properly in public. An animal that behaves in an unreasonably disruptive or aggressive manner (barks, growls, bites, jumps, urinates or defecates, etc.) will be removed.

**CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD**

**Regular Meeting
January 12, 2017
7:00 p.m.
City Hall, Hearing Room #1
One Frank H. Ogawa Plaza, Oakland, CA**

DRAFT MINUTES

1. CALL TO ORDER

The HRRRB was called to order at 7:05 p.m. by Board Chair, Jessie Warner.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Tyfahra Singleton	Tenant		X	
Beverly Williams	Homeowner			X
Karen Friedman	Landlord	X		
Noah Frigault	Tenant	X		
Ramona Chang	Landlord	X		
Jessica Warner	Homeowner	X		

Staff Present

Richard Illgen	Deputy City Attorney
Kent Qian	Deputy City Attorney
Connie Taylor	Rent Adjustment Program Manager

3. CONSENT ITEMS

- i. Approval of Minutes for December 8, 2016
- ii. Approval of draft decisions in:
 - a. L14-0065; CNML Properties LLC v. Tenants
 - b. T15-0360; Harrison v. Solares

N. Figault made a motion to approve the draft minutes with corrections. K. Friedman seconded. The Board voted as follows:

000003

Aye: N. Frigault, J. Warner, R. Chang, K. Friedman
Nay: 0
Abstained: 0

The motion was approved by consensus.

Speakers:

Stephen Judson

J. Warner made a motion that staff make changes suggested by City Attorney which will be reviewed by the Board Chair and not returned to the Board. K. Friedman offered friendly amendment that Board members will receive a copy of corrected draft decisions by e-mail. R. Chang seconded. The Board voted as follows:

Aye: N. Frigault, J. Warner, R. Chang, K. Friedman
Nay: 0
Abstained: 0

The motion was approved by consensus.

4. OPEN FORUM

Speakers:

James Vann
Kathleen Solaris

5. NEW BUSINESS

i. Appeal Hearing in cases:

a. T15-0374; Didrickson v. Dang

Appearances:

Landlord

Ted Dang
Collin Dyer

Tenants

Carlos Didrickson
Glenda Didrickson

000004

Rebuttal

All parties offered rebuttal

Board Discussion

After Board discussion and questions to both parties, N. Frigault made a motion to affirm the decision based on substantial evidence presented by the Hearing Officer. J. Warner seconded. The Board voted as follows:

Aye: N. Frigault, J. Warner, R. Chang,

Nay: K. Friedman

Abstained: 0

The motion carried.

- a. T16-0175; Didrickson v. Dang

J. Warner made a motion to affirm the Hearing Officer's decision based on substantial evidence presented by the Hearing Officer. N. Frigault seconded. The Board voted as follows:

Aye: N. Frigault, J. Warner, R. Chang

Nay: K. Friedman

Abstained: 0

- b. T15-0576; Kellybrew v. Lewis

Appearances:

Tenant

James Kellybrew

Landlord

James L. Lewis

Rebuttal

All parties offered rebuttal.

000005

Board Discussion

After Board discussion and questions to both parties, K. Friedman made a motion to affirm the Hearing Officer's decision based on substantial evidence to support it. R. Chang seconded. The Board voted as follows:

Aye: N. Frigault, J. Warner, R. Chang, K. Friedman
Nay: 0
Abstained: 0

The motion was approved by consensus.

c. T15-0420; Sabrah v. Beacon

Appearances:

Tenant

Waleed Sabrah

Landlord

Erin Young

Rebuttal

All parties offered rebuttal.

Board Discussion

After Board discussion and questions to both parties, K. Friedman made a motion to remand the case for a hearing on all of the issues based on the fact that the document asking for a continuance by both parties was received by the Rent Program as noted in the activity log of the case file. N. Frigault seconded. The Board voted as follows:

Aye: N. Frigault, J. Warner, R. Chang, K. Friedman
Nay: 0
Abstained: 0

The motion carried by consensus.

7. SCHEDULING AND REPORTS

1. Schedule discussion of Board attendance.
2. Schedule discussion and possible action on Just Cause Regulations for a meeting in February, as many Board members will be out of town on January 26, 2017.

000006

8. ADJOURNMENT

J. Warner made motion to adjourn. N. Frigualt seconded. The meeting was adjourned by consensus at 9:55 p.m.

000007

5



CITY OF OAKLAND

P.O. BOX 70243, OAKLAND, CA 94612-2043

Department of Housing and Community Development
Rent Adjustment Program

TEL (510) 2383721

FAX(510)238-6181

TDD(510)238-3254

HOUSING, RESIDENTIAL, RENT AND RELOCATION BOARD

DRAFT APPEAL DECISION

CASE NUMBER: T15-0576, Kellybrew v. Lewis
APPEAL HEARING: January 12, 2017
PROPERTY ADDRESS: 201 Athol Ave., No. 107
Oakland, CA
APPEARANCES: James Kellybrew Tenant Appellant
James Lewis Owner Appellee

Procedural Background

The tenant filed a petition alleging decreased housing services and a code violation. The Hearing Decision denied the tenant petition.

Grounds for Appeal-Owner

The tenant appealed the Hearing Decision on the following grounds:

- The decision is not supported by substantial evidence;

Appeal Decision

After Board discussion and questions to both parties K. Friedman moved to affirm the Hearing Officer's decision based on substantial evidence to support it. R. Chang seconded .

The Board voted as follows:

Aye: N. Frigault, K. Friedman, R. Chang, J. Warner

Nay: 0
Abstain:

The motion was approved by consensus.

NOTICE TO PARTIES

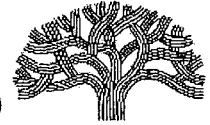
Pursuant to Ordinance No (s). 9510 C.M.S. of 1977 and 10449 C.M.S. of 1984, modified in Article 5 of Chapter 1 of the Municipal Code, the City of Oakland has adopted the ninety (90) day statute of limitations period of Code of Civil Procedure, Section 1094.6.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF MAILING OF THIS DECISION WITHIN WHICH TO SEEK JUDICIAL REVIEW OF THE DECISION OF THIS BOARD IN YOUR CASE.

CONNIE TAYLOR
BOARD DESIGNEE
CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND
RELOCATION BOARD

DATE

000009



P.O. BOX 70243, OAKLAND, CA 94612-2043
Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

**Housing, Residential Rent
and Relocation Board (HRRRB)**

APPEAL DECISION

CASE NUMBER: T15-0420, Sabrah v. Beacon
APPEAL HEARING: January 12, 2017
PROPERTY ADDRESS: 37 Moss Avenue, No. 10
Oakland, CA
APPEARANCES: Waleed Sabrah Tenant Appellant
Erin Young Owner Representative

Procedural Background

The tenant filed a petition on August 11, 2015, which contested a monthly rent increase from \$1,277.00 to \$1,340.00 and also claimed decreased housing services. The tenant requested a postponement of the hearing scheduled for December 15, 2015, which was granted, and the hearing was re-scheduled for February 11, 2016.

Pursuant to Section 8.22.110-Hearing Procedure-A-Postponements- a party may be granted only one postponement for good cause, unless the party shows extraordinary circumstances.

On January 27, 2016, the tenant requested a second postponement on the grounds that he was attending a conference in Anaheim on February 11, 2016. The reason was that the tenant just realized that he was attending a trade show in Anaheim on the date of the hearing. He did not provide any documentation of pre-arranged travel as of December 15, 2015, the date of the Order which granted the first continuance.

On February 8, 2016, the tenant requested mediation but did not submit any written request for a mediation.

The Hearing Officer determined that the tenant had already been granted a continuance, the second request for postponement was received two weeks prior to the hearing on February 11, 2016, and concluded that this did not constitute an extraordinary circumstance.

The tenant did not appear at the Hearing and the Hearing Officer dismissed the tenant petition.

Grounds for Appeal

The tenant filed an appeal on February 8, 2016, and contends the following:

- The decision is inconsistent with OMC Chapter 8.22, Rent Board regulations or prior decisions of the Board.
- The decision is not supported by substantial evidence;

Appeal Decision

After Board discussion and questions to both parties, K. Friedman moved to remand the case for a hearing on all the issues based on the fact that the document asking for a continuance by both parties was received by the Rent Program as noted in the activity log of the case file. N. Frigault seconded. The Board voted as follows:

Aye: J. Warner, K. Friedman, N. Frigault, R. Chang
Abstain 0
Nay 0

The motion was approved by consensus.

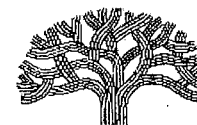
NOTICE TO PARTIES

Pursuant to Ordinance No(s). 9510 C.M.S. of 1977 and 10449 C.M.S. of 1984, modified in Article 5 of Chapter 1 of the Municipal Code, the City of Oakland has adopted the ninety (90) day statute of limitations period of Code of Civil Procedure, Section 1094.6.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF MAILING OF THIS DECISION WITHIN WHICH TO SEEK JUDICIAL REVIEW OF THE DECISION OF THIS BOARD IN YOUR CASE.

CONNIE TAYLOR
BOARD DESIGNEE
CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND
RELOCATION BOARD

DATE



CITY OF OAKLAND

P.O. BOX 70243, OAKLAND, CA 94612-2043 TEL (510) 238-3721
Department of Housing and Community Development FAX (510) 238-6181
Rent Adjustment Program TDD (510) 238-3254

Housing, Residential Rent and Relocation Board (HRRRB)

DRAFT APPEAL DECISIONS

CASE NUMBER: T15-0374, Didrickson v. Dang
APPEAL HEARING: January 12, 2017
PROPERTY ADDRESS: 2230 Lakeshore Ave., No. 7
Oakland, CA
APPEARANCES: Carlos Didrickson Tenant
Glenda Didrickson Tenant
Ted Dang Owner Representative
Collin Dyer Owner Representative

Procedural Background

The tenants filed a petition which contested a rent increase from \$2,725 to \$2,895, effective August 1, 2015, and also claimed decreased housing services.

Hearing Decision

The Hearing Decision stated that the tenants' base rent was \$2,875.93 and granted a 18% restitution for decreased housing services which encompassed various time periods. The amount of restitution granted totaled \$2,302.21. The Hearing Decision also granted a continuing decrease of 9% for ongoing decreased housing services.

Grounds for Appeal

The owner filed an appeal on February 19, 2016, contending that the decision raises a new policy issue that has not been decided by the Board. The

tenants also filed an appeal on February 19, 2016, and stated that the decision is inconsistent with decisions issued by other hearing officers.

Appeal Decision

After Board discussion and questions to both parties N. Frigault moved to affirm the Hearing Decision based on substantial evidence presented by the Hearing Officer. J. Warner seconded. The Board voted as follows:

Aye: N. Frigault, J. Warner, R. Chang
Nay: K. Friedman

The motion carried.

CASE NO. & NAME **T16-0175-Didrickson v. Dang**
APPEAL HEARING: **January 12, 2017**
PROPERTY ADDRESS: **2230 Lakeshore Ave., No. 7**
 Oakland, CA
APPEARANCES: **Carlos Didrickson Tenant**
 Glenda Didrickson Tenant
 Ted Dang Owner Representative
 Collin Dyer Owner Represent

Procedural Background

The tenants contested a rent increase from \$2,725 to \$2,875.93 effective April 1, 2016, and from \$2,725.00 to \$3,043.00 effective August 2015, and claimed decreased housing services, code violations, no written summary of the justification for the increases and no concurrent RAP notice.

Hearing Decision

The Hearing Decision took official notice of the base rent of \$2,875.93 and Order regarding restoration of rent upon repairs in Case No. T15-0374, and granted a monthly C.P.I. increase of \$48.89, totaling \$2,924.82.

Due to a rent overpayment of \$4,370.00 the monthly rent was set at \$2,054.67 from September through November 2016, \$2,328.82 from December 2016 through March 2017 and reduction of \$364.17 from April 2017 to August 2017.

Grounds for Appeal

The owner filed an appeal on August 23, 2016, on the following grounds:

- The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board;
- The decision is inconsistent with decisions issued by other hearing officers.
- The decision is not supported by substantial evidence.

Appeal Decision

J. Warner moved to affirm the Hearing Officer's decision based on substantial evidence presented by the Hearing Officer. N. Frigault seconded. The Board voted as follows:

Aye: N. Frigault, J. Warner, R. Chang
Nay: K. Friedman
Abstained: 0

NOTICE TO PARTIES

Pursuant to Ordinance No(s). 9510 C.M.S. of 1977 and 10449 C.M.S. of 1984, modified in Article 5 of Chapter 1 of the Municipal Code, the City of Oakland has adopted the ninety (90) day statute of limitations period of Code of Civil Procedure, Section 1094.6.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF MAILING OF THIS DECISION WITHIN WHICH TO SEEK JUDICIAL REVIEW OF THE DECISION OF THIS BOARD IN YOUR CASE.

CONNIE TAYLOR
BOARD DESIGNEE
CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND
RELOCATION BOARD

DATE

CITY OF OAKLAND

REPORT

To: Housing Residential Rent and Relocation Board
ATTN: Jessie Warner, Chairperson
FROM: Connie Taylor, Rent Adjustment Program Manager
DATE: February 14, 2017

RE: Revisions to Just Cause Regulations

The Board is tasked with final adoption of Just Cause regulations. The Council asked the Board to consider and adopt regulations for the Just Cause for Eviction Ordinance (O.M.C. Chapter 8.22, Article II) to require landlord certifications for certain types of evictions.

I recommend adoption of the following modifications to the Just Cause regulations.

Just Cause for Eviction Regulations

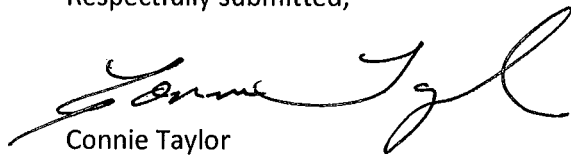
8.22.340 – Definitions

Definitions for Eviction and Endeavoring to recover possession included to assist in enforcement of evictions where the Tenant is not at fault.

8.22.360B.8 Owner Certifications For Certain Evictions

Requested by City Council: Regulations requiring certification of possession, re-renting, rents following owner or close relative move-in or repairs. The Council viewed these regulations as necessary for compliance with Just Cause and Rent Adjustment Ordinances.

Respectfully submitted,



Connie Taylor
Rent Adjustment Program Manager

Amendments to Just Cause For Eviction Regulations

8.22.340 - Definitions

“Eviction” includes endeavoring to recover possession, issuing a notice terminating tenancy, or recovering possession of a rental unit.

“Endeavoring to recover possession” of a rental unit includes, but is not limited to, any verbal or written communication that would cause a reasonable tenant to believe that the landlord will bring a formal notice or action to recover possession of the rental unit, or any conduct that would cause a reasonable tenant to be constructively evicted from a rental unit.

8.22.360B.8 Owner Certifications For Certain No Tenant Fault Evictions

a. Scope of Regulations: The regulations in this section are designed to provide reporting requirements to better assure compliance with Sections 8.22.360A.8, A.9, A.10, and A.11 of the Oakland Municipal Code.

b. Certifications to Rent Program required for eviction or tenant vacating O.M.C. Sections 8.22.360A.8 or A.9.

- i. Initial certification following vacancy by Tenant. An Owner who evicts a tenant pursuant to O.M.C. Sections 8.22.360 A.8 or A.9 or where a tenant vacates following a notice or other communication stating the Landlord’s intent to seek recovery of possession of the unit under any of these O.M.C. Sections must submit to the Rent Board a completed certification on a form to be developed by Staff within thirty (30) days of the tenant’s vacation of the unit. This certification must include the amount of the Tenant’s rent on the date the Tenant vacated.
 - ii. Certification following occupancy. The Owner or the designated qualifying relative must move in to unit within three (3) months of the tenant’s vacation of the unit. Within 30 days of the Owner or the Owner’s qualifying relative’s commencing occupancy of the unit as a principal residence, the Owner must file a certificate attesting to the occupancy in addition to any evidence of occupancy as required by the certificate.
 - iii. Continued occupancy certification. Following an Owner or qualifying relative occupying a unit pursuant to Sections 8.22.360A.9, the Owner must submit a certification that the Owner or the Owner’s qualifying relative continues to reside or not reside in the unit as a principal residence. The Owner must attach proof of residence in the unit, including but not limited to a copy of a valid California Driver’s License or another government-issued form of identification. This certification must be provided every twelve (12) months from the initial move-in date for thirty-six (36) months following that move-in date.
- c. Certifications to Rent Program required for eviction or tenant vacating pursuant to O.M.C. Section 8.22.360A.10.
- i. Initial certification following vacancy by tenant. An Owner who evicts a tenant pursuant to Section 8.22.360A.10 or where a tenant vacates following a notice or other communication

stating the Landlord's intent to seek recovery of possession of the unit under this O.M.C. Section must submit a certification within thirty (30) days following the Tenant's vacation of the unit. This certification must include the amount of the Tenant's rent on the date the Tenant vacated.

- ii. Completion of work. Within thirty (30) days following completion of the work that required the Tenant to vacate, the Owner must file a certification that the Owner reoffered the unit to the Tenant.

- d. Certifications to Rent Program required for eviction or tenant vacating pursuant to O.M.C. Section 8.22.360A.11.
 - i. Initial certification following vacancy by tenant. An Owner who evicts a tenant pursuant to Section 8.22.360A.11 or where a tenant vacates following a notice or other communication stating the Landlord's intent to seek recovery of possession of the unit under this O.M.C. Section must submit a certification within thirty (30) days following the Tenant's vacation of the unit. This certification must include the amount of the Tenant's rent on the date the Tenant vacated.

- e. Certifications upon re-rental.
 - i. An Owner re-renting a unit to the former Tenant or a new Tenant following an eviction or tenant voluntarily vacating under O.M.C. Sections 8.22.360A.8, A.9, and A.10 must certify the Rent amount within thirty (30) days of occupancy.

- f. Forms and information required as part of certifications.
 - i. Staff shall develop forms for required certifications.
 - ii. The certifications shall be filed under penalty of perjury.
 - iii. Staff is authorized to request supplemental information consistent with the purpose of each of these certifications.

- g. Notification of failure to file.
 - i. Staff may, but is not required to, notify an Owner that a required filing was not made.
 - ii. Staff's not providing notification to an Owner of the Owner's failure to file does not excuse the Owner from filing, nor from any penalties from failing to file.

- h. Notification to new Owner and filing change of Ownership.
 - i. Whenever a unit or the property in which the unit is located changes ownership, the former Owner is required to notify the new Owner of the certification requirements.
 - ii. Whenever a unit or the property in which the unit is located changes ownership, the former Owner is required to notify the Rent Program of the change in ownership and the contact information for the new Owner.

- i. Penalties for Failing to File Certification.

i. An Owner who fails to timely file any certification or notice may be assessed administrative citation pursuant to O.M.C Chap. 10.12.

ii. An Owner who fails to timely file any certification on more than one occasion or who fails to file after notice, may be assessed a civil penalty pursuant to O.M.C Chap. 10.08.