

**Minutes of a Special Meeting of the
Rent Review Advisory Committee
Monday August 20, 2018**

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order at 6:38 P.M.

Present were: Chair Cambra; Vice Chair Murray (arrived at 6:48pm);
Members Friedman, Sullivan-Cheah, and Griffiths

Absent: None

Program staff: Grant Eshoo, Gregory Kats

City Attorney staff: John Le

2. AGENDA CHANGES

- a. Staff called roll of parties present for the agendized cases. All tenants were present at roll call except the tenant for Agenda Item 7-D. Item 7-D was moved to the end of New Business.

3. STAFF ANNOUNCEMENTS

- a. None.

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

- a. None.

5. CONSENT CALENDAR

- a. Motion and second to table the vote on approval of the July 23, 2018 minutes (Member Friedman and Chair Cambra). Passed 4-0 (Member Murray not yet present).

6. UNFINISHED BUSINESS

- a. None.

7. NEW BUSINESS

7-A. CASE 1077 – 2485 Shoreline Dr., Apt. 217

Tenants: Erika Cavallone & Fabrizio Benin

Landlords: Randall Kessler, Michael St. John, Andrew Fisher

Proposed rent increase: \$208.22, effective October 1, 2018, from a base rent of \$1,695.00 to a total rent of \$1,903.22

Mr. St. John stated that the owners had done major renovation of the building from 2013-2018. He said the hard and soft costs amounted to \$2.87 million. He added that the total cost including financing was \$4.96 million. During the project, he said, the owners had to forgo rent payments and rent increases, and suffered vacancy losses to allow the

construction to go forward. Including these additional costs, he added, the total cost was \$5.4 million. He clarified that the current rent increase requests only took into consideration the \$2.87 million in hard and soft costs.

He said the project did not qualify for the City's Capital Improvement Plan (CIP) process because the work started prior to the date allowed under the City's CIP resolution. However, he continued, using the CIP plan would have allowed for an increase of \$483 per unit, per month, while the increases the landlord was requesting were less than this.

He explained that the landlords offered most of the tenants either a "phase-in" or a "one-time" increase option, and explained the differences between and reasons for the two options. He said that the one-time increase front-ends the costs, while the phase-in apportions the costs over several years.

Mr. Kessler added that a seismic upgrade began in 2013, and no increases had been given since 2014.

Member Friedman reflected back and clarified some of the landlord's figures. The landlords confirmed that increases for tenants who arrived before 2015 have some portion of CAPX improvements calculated into the increase amounts, and tenants who have been in place since before 2013 are being asked to pay 100% of the total CAPX costs.

Ms. Cavallone asked if this hearing was for this year's increase only. Vice Chair Murray explained the RRAC's ability to make a decision regarding an increase can only be for an increase of one year.

Ms. Cavallone said she was only comfortable making an agreement for one year. She said she works as a researcher at UCSF and her husband works as an Uber driver. She said her income was relatively fixed, and her husband had a history of multiple hospitalizations, which rendered them living on one income for a period of time. She said the increase request posed a financial hardship for them. She added that they were not happy with their living situation and she believed upper management (Berger Enterprises) had been unprofessional in the management of their building. She mentioned that a relative of the manager behaved inappropriately, such as by entering the unit of a tenant without notice, which showed there were safety concerns at the property. Ms. Cavallone requested a change of management or a retraining of management staff.

Member Friedman reflected back the tenants' concerns.

Mr. St. John explained that they used "maintenance of net operating income" to determine fair rate of return.

The landlords presented the Committee with photos of the property. Member Sullivan-Cheah asked staff if the photos submitted would be included in an updated agenda. Staff clarified that the agenda for tonight would be unchanged, but that copies of the photos submitted may be requested through a Public Records Act request.

Mr. St. John said that many tenants had expressed concerns (in their RP-01 submissions) that no work was done to the inside of their units. He said much of the work was "invisible" – e.g., retrofitting, structural upgrades, dry rot remedied, seismic upgrades.

Chair Cambra asked if the landlords informed the tenants during the years of work that the costs for the work would be passed on to them in the form of rent increases. The landlords responded that the tenants were not informed.

Member Friedman asked why the landlords were asking for the tenants to pay for the costs of the work in the first year or years. Mr. Fisher replied that they were not, and the total costs would be spread out over a longer period of time.

Ms. Cavallone stated that she believed a total rent of \$1,779 was reasonable, because it was a 5% increase. Chair Cambra asked that the tenants provide a numerical value of an increase amount they thought was reasonable and Ms. Cavallone said she thought a \$40 increase was reasonable.

Chair Cambra asked the landlords if they learned anything during the hearing that would entice them to compromise on the amount of the increase, and Mr. St. John said no. He added that when tenants were inconvenienced during the construction, such as being temporarily relocated, the landlords paid for their temporary relocation.

The members discussed their thoughts on the items the parties shared and asked the parties to take a seat before they began the decision-making phase of the hearing.

Vice Chair Murray explained the importance of landlords keeping properties in good condition, such as by the seismic retrofitting that the landlords did at this property.

Member Sullivan-Cheah said that he thought the 9.5% increase figure was not unreasonable, and noted that while the tenants did not have a rent increase since 2013, they also had a decrease in housing services due to the ongoing construction during the period where no increases were imposed. He offered that an \$85 (5%) increase would be significant given the tenants' financial hardship.

Member Friedman said he thought a \$100 (5.9%) increase would be reasonable.

Chair Cambra said he agreed with Vice Chair Murray that it was important that the RRAC not discourage landlords from implementing capital improvements.

Vice Chair Murray proposed a \$127.12 (7.5%) increase, stating that would best balance the interests of the landlords with the financial hardship of the tenants.

Member Griffiths said he was open to either a \$100 or \$127.12 increase.

Chair Cambra suggested a \$120 increase.

Member Friedman suggested a \$112 increase.

Motion and second for an increase of \$125 (7.4%) (Member Sullivan-Cheah and Vice Chair Murray). Motion passed 4-1, with Member Friedman voting against it.

7-B. CASE 1083 – 2485 Shoreline Dr., Apt. 311

Tenants: Timothy Larson & Mengxia (Judy) Zhu

Landlords: Randall Kessler, Michael St. John, Andrew Fisher, Johanna Leonard

Proposed rent increase: \$309.06, effective October 1, 2018

Mr. Larson said that they disagreed with the rent increases offered and did not believe any increase was warranted, as the tenants were still recovering from their losses during the preceding years of construction. He said that during construction the roof leaked large amounts of water into their unit, destroyed their property, and created mold in the unit. He said that the landlords temporarily housed them off-site, into an unsanitary motel infested with fleas, for three months while work was being done to restore the unit. He went on to add that upon moving back into the unit, the movers broke some of their property and they were not reimbursed for all of it, and the mold in the unit was not remedied. He stated that additional repairs were not effective at remedying a myriad of problems at the property.

Ms. Leonard explained the temporary move to a motel from the perspective of the management. She said tenants who did not have access to their balconies were given a rent credit during the construction on the property. She took the position that management had already reimbursed tenants or gave them rent credits during the inconveniences caused by the construction.

Chair Cambra asked if the landlords learned anything new. Mr. St. John said he did not as he had read the tenant's response. He said he was not willing to make any concession on the amount of rent increase they were looking for, as the tenants had already been compensated for the inconveniences of the construction project.

Mr. Larson said he did not know that the landlords would come back to collect the money they were reimbursed or not charged for the inconveniences caused by the loss of services. He said he still felt that no increase was fair.

Member Murray asked if tenants submitted losses and expenses to the landlord and Mr. Larson said he did. Ms. Zhu said she thought it was unfair that the landlords seemed to want to retrieve the rent credits they had been paid as compensation for the construction and related mishaps. Mr. St. John denied that this was the reason for the present increases, and said the current increases were for work that was yet to be done on the property.

Vice Chair Murray asked the landlords what the tenant complaint process looked like. Ms. Leonard described the process.

Member Sullivan-Cheah asked the tenants how much of their household income goes toward rent and the tenants declined to answer.

The parties took a seat and the members deliberated.

Member Griffiths suggested a \$100.17 increase for the phase-in CAPX. Motion and second for a \$100 (6.3%) increase starting October 1, 2018 (Member Griffiths and Member Sullivan-Cheah). Motion passed 5-0.

7-C. CASE 1086 – 2485 Shoreline Dr., Apt. 222

The Committee voted to postpone this agenda item to a future date.

7-D. CASE 1087 – 2485 Shoreline Dr., Apt. 111

The Committee voted to postpone this agenda item to a future date.

7-E. CASE 1089 – 2485 Shoreline Dr., Apt. 306

The Committee voted to postpone this agenda item to a future date.

7-F. CASE 1095 – 2485 Shoreline Dr., Apt. 215

The Committee voted to postpone this agenda item to a future date.

7-G. CASE 1099 – 2485 Shoreline Dr., Apt. 313

The Committee voted to postpone this agenda item to a future date.

7-H. CASE 1100 – 2485 Shoreline Dr., Apt. 109

The Committee voted to postpone this agenda item to a future date.

7-I. CASE 1101 – 2485 Shoreline Dr., Apt. 209

The Committee voted to postpone this agenda item to a future date.

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

9. MATTERS INITIATED

Member Sullivan-Cheah stated that he found being timekeeper to be distracting from concentrating on the cases. He asked if another Committee member or staff could take on the role of timekeeper. Staff replied that staff could be timekeeper again, and reminded the Committee that staff had previously been timekeeper and each time staff would inform the Committee that a time limit had passed, the Committee members would give themselves extensions.

Vice Chair Murray suggested that, at the beginning of each meeting the members choose a timekeeper, and the members share the responsibility.

Member Friedman requested a discussion item be placed on the agenda of the next regularly scheduled meeting for the members to discuss amending the bylaws to include a per-case time limit.

10. ADJOURNMENT

The meeting adjourned at 9:50 p.m.

Respectfully Submitted,

RRAC Secretary
Grant Eshoo

Approved by the Rent Review Advisory Committee on November 7, 2018