

**CITY OF EAST PALO ALTO
RENT STABILIZATION BOARD MEETING
WEDNESDAY, SEPTEMBER 23, 2009
CITY COUNCIL CHAMBERS
2415 UNIVERSITY AVENUE
EAST PALO ALTO, CA
Minutes**

CALL TO ORDER AND ROLL CALL

Chair Dorn called the meeting to order at 7:04 p.m.

Board Members Present: Dorn, Randolph, Webster, Hart, Hernandez
Board Members Absent: Mitchell
Board Alternates Present: Allen
Board Alternates Absent:
Staff Present: Ford, Aguilar, Alvarado

1. APPROVAL OF AGENDA

Motion: It was moved (Randolph) and seconded (Hernandez) to approve the agenda, and accept the written communication from Mr. Fremont. The motion passed, with Allen abstaining.

2. WRITTEN COMMUNICATIONS

3. APPROVAL OF AGENDA

4. APPROVAL OF MINUTES

5. AGENDIZED ITEMS FOR POLICY AND ACTION

5.1 Discussion of Board retreat

Staff Ford reported that all the Hearing Examiners are available on November 7, and the Community Room has been reserved for the retreat.

Board Member Hart felt that the location for the retreat should be somewhere more “inviting.” He will look at the law firm next to the Four Seasons who might be interested in hosting the Board for its retreat.

The Board reviewed the agenda items: (1) Purpose of the Rent Stabilization Ordinance Program; (2) Powers and Duties of the Rent Board; (3) Costa-Hawkins Procedure; (4)

Brown Act; (5) Board Members conduct around RSO campaign and other community activities; (6) Role of the Hearing Examiners; (7) Petition and Appeals; and (8) City Government structure.

Board Member Webster commented that spending real time on the powers and duties of the Board would be very helpful.

Chair Dorn suggested that Board Member Webster do an introductory report on the general powers and duties of the Board, and that Legal Counsel could provide specific information.

Board Member Hart suggested that Staff Lee could provide an overview of the purpose of the Rent Stabilization Ordinance Program.

Chair Dorn said she could introduce the paragraph of the purpose in the RS Ordinance.

Board member Randolph said the meat of the discussion would be reviewing and discussing the Powers and Duties.

City Attorney Alvarado suggested combining the Purpose and Powers and duties and legal staff could explain the purpose briefly before there would be a larger discussion of powers and duties.

Chair Dorn agreed.

- 5.2 Review and discussion of Measure N (proposal to adopt new Rent Stabilization Ordinance) not appearing on November, 2009 City ballot and process for placing Rent Stabilization and Good Cause for Eviction Ordinance on a future City ballot

Board Member Webster reported that in early October, the staff will present the City Council with several alternatives as to when the new Rent Stabilization Ordinance (RSO) might appear on the ballot.

City Attorney Alvarado commented that it was too early to say what changes would take place; the City Council will consider the RSO again.

- 5.3 Review and Discussion of San Mateo Superior Court's Oberle, et. al. decision

Matthew Fremont, 1986 Euclid, distributed copies of the tentative ruling of the case. After one year of delays, the Court conducted a hearing on the motion for preliminary injunction and granted the motion. This was a great victory for tenants. He explained that the case was filed by Eric Oberle, himself and two other tenants as a class action and what they had in common was they all lived in buildings with four or fewer units. The case should be resolved next week.

Chair Dorn asked whether Mr. Fremont knew how many tenants were represented by the lawsuit.

Mr. Fremont estimated 60 units. He pointed out that his neighbors who lived at 1986 Euclid between five and 20 years paid between \$775 and \$875 per month for rent; in June of 2009, the rent was increased to \$1,400. He explained that the judge adopted the tenant ruling as his final ruling with one change as to the second part of the proposed preliminary injunction; the actual order that implements the preliminary injunction will be finalized next week.

Chair Dorn asked whether staff would be sending out information to landlords about what the rent was and what the AGA was at the time they took ownership of the properties.

Mr. Alvarado responded that the order is a preliminary injunction order and there has been no trial or final order by the Court; thus, it would be premature for the Rent Stabilization Board to issue notices to the properties.

5.4 Review and Discussion of possibility of implementing a tenant-initiated rental unit registration procedure

Board Member Allen commented that based on the fact that Page Mill Properties did not feel they should be required to supply information on tenants' names, unit numbers, move in dates, and initial rents, he suggested developing a checks and balances to complete the information and that tenants could file a new tenant registration form on their own. He used the vacancy registration form used by the Board and took out references to "landlord" and added "tenant." The procedure would be a check on landlords who do not comply with the program. His suggestion was that there should be a change in the Rules and Regulations to reference a tenant registration form, including procedures.

Board Member Hart expressed concern that the form might be adopted as an administrative tool but it would not have a mandate behind it.

Board Member Allen pointed out that under the ordinance, the Board is empowered to issue rules and regulations to implement the ordinance; Calvin Whitaker, in 1996, following Berkeley's Rent Stabilization Program, implemented the Costa Hawkins vacancy registration form administratively. There was never any reference to it in the Rules and Regulations. He would like the Board to set the groundwork for moving forward to empower the residents to do what Page Mill should have done.

Chair Dorn commented that tenant form would be used if the tenant felt their rents were raised more than was allowed by the Rent Stabilization Board.

“Board Member Allen commented that a process would have to be created for handling those who submit the ~~second~~ tenant registration forms.” He made another change on page 4, “Board Member Allen reported attending a LAFCo hearing ~~last week~~ Wednesday, September 16, 2009.” At the bottom of page 4, he made a correction, “Board Member Webster spoke about the positive atmosphere of the City’s meeting with Wald Realty. ~~of the meeting but~~ He was astounded when at the LAFCo afco meeting on September 16, 2009, when Mr. William D. Ross (attorney representing Page Mill Properties) made a presentation to LAFCo ...”

Board Member Allen explained that this would be a corrective measure for those property owners who had not been compliant with the program and took advantage of loopholes. If the form were used, the Program could issue a new certificate based on information that the landlord or tenant gives. There were be 15 days to challenge the certificate before it becomes law.

Chair Dorn questioned if a certificate was issued to the landlord and sent to the tenant, and then the tenant said the rent was not what it should be, could the tenant file a new tenant registration form. Staff was asked whether a new certificate could be sent out based on that information.

Staff Ford commented that Chair Dorn was describing a new process, and he had no idea of what the process would be.

Board Member Allen commented that a process would have to be created for handling those who submit the tenant registration forms.

Chair Dorn asked Legal staff if a revised certificate could be issued.

City Attorney Alvarado responded that a revised certificate could not be issued.

Staff Ford asked Board Member Allen to clarify if the process would be for existing tenants or for new tenants only.

Board Member Allen responded that he suggested “new tenant registration form” because the current vacancy registration form is for new tenants. The process and form itself has to be signed by the landlord stating that the information on the form is true. He suggested assigning this to the Rules and Regulations Committee.

Matthew Fremont, 1986 Euclid, referred to a letter he sent to the Board and spoke in favor the new tenant registration. He agreed that referring this issue to the Rules and Regulations Committee is a good start.

6. CONSENT CALENDAR

7. PUBLIC HEARING

8. RESOLUTIONS OR RULES

9. REPORTS OF COMMITTEE AND STAFF

Board Member Allen reported attending a LAFCo hearing Wednesday September 16, 2009, which was continued to October so that the LAFCo Board Members have a chance to review the City of East Palo Alto's response to the report from Page Mill Properties' lawyer. At that meeting, he and Board Member Webster approached the Mayor regarding the meeting with the Receiver and the Bank. The meeting was successful; Wells Fargo got the Court to appoint Wald Realty Advisors as the Receiver for the property; the Receiver reports to the Judge. The main topic of the meeting, as reported in the paper, was to satisfy the health and safety issues that have been raised on Page Mill's portfolio; the City Attorney raised the question about the 10-12 pending lawsuits. He was able to speak at the meeting and present to the parties the Rent Board's interest and also gave some history about how things worked before Page Mill came into the picture.

Board Member Webster spoke about the positive atmosphere of the City's meeting with Wald Realty but was astounded at the LAFCo meeting on September 16, 2009, when Mr. William D. Ross (attorney representing Page Mill Properties) made a presentation to LAFCo in support of the request for the reduction of the sphere of influence of the City of East Palo Alto on the west side. He made a brief presentation at the meeting, addressing the allegations of poor governance on the part of the City of East Palo Alto with regard to the Rent Stabilization Board conducting secret meetings. At that meeting, he wanted it on the record that the allegations were untrue, and he specifically addressed the meeting of the Rules and Regulations Committee that took place on April 1, 2008, with representatives of the Berkeley Rent Board; the meeting was at the request of the City Council, and it was an interview rather than a meeting of the Committee. In his opinion the meeting was not subject to the noticing issue. He also pointed out that, yesterday, he attended a meeting of the Board of Directors of the Whispering Pines Homeowners Association, located at 480 E. O'Keefe. He was interested in any concerns the homeowners might have about the situation with Page Mill Properties.

Board Member Hart commented on the small but loud demonstration two weeks ago in front of Wells Fargo Bank in downtown Palo Alto. Management of the bank came out and dialoged with the demonstrators and reassured everyone that they were not interested in abandoning the tenants and were interested in making sure that living arrangements were safe and in compliance with the laws, rules and regulations of the City of East Palo Alto. He also made reference to a conversation with the Mayor and Vice Mayor regarding the Courtyard Apartments on Bay Road which have not been under the Rent Stabilization Ordinance, but has an agreement with the City to comply with rules and regulations of the City. Courtyard has been in violation of the contract during the past six months. He submitted an email to the Mayor, Vice Mayor and Staff Lee last Friday requesting a copy of the four year annual reports that are mandated to be submitted by Courtyard each year. He also wants to get a copy of the recommendations and violations

that Courtyard has been in violation of. He pointed out that public funds were used for construction of the facility which is a low and moderate housing unit.

Chair Dorn interrupted Board Member Hart, pointing out that the Courtyard on Bay Road was not under the Rent Stabilization Ordinance.

Board Member Hart responded that he was not finished and did not want to be cut off.

Chair Dorn responded that she had the right to cut him off.

Board Member Hart responded that she did not have the right to cut him off.

Chair Dorn stated that Board Member Hart's comments had nothing to do with the Rent Stabilization Board.

Board Member Hart responded that it does have something to do with the Rent Stabilization Board because Mr. Lee is the overseer.

Chair Dorn responded that he should take the matter up with staff Lee because it has nothing to do with the Rent Board and asked if there was anything else that Board Member Hart wanted to tell the Board about.

Board Member Hart responded that it does have something to do with the Rent Board. Hart told Chair Dorn not to rush him and that she hadn't rushed anyone else and that she wasn't going to rush him.

Chair Dorn said that the Board is dealing with matters that have to do with rent stabilization.

Board Member Hart stated that it has to do with renters and they are renters with the City of East Palo Alto. He said that the other statement that he wanted to make before he was "rudely cut off by the Chair and allow people to sit and talk all freakin' night and then you want to cut other people off," that it was Latino Heritage Month and a celebration that is taking place at Bloomingdale's at Stanford Shopping Center tomorrow from 5 p.m. to 7 p.m. Norma Lopez' art will be on display and there will be live entertainment. He said, "Thank you for your inconsiderance Chair."

Chair Dorn thanked Board Member Hart for the information and asked that he try to "comply with what we want on the Rent Board."

Board Member Hart stated "It's not we want, it's I."

Chair Dorn said that she disagreed.

9.1 Report out from RS Board Members and Committees:

Chair Dorn commented that the Education Committee met and will have more information, publications, etc. available to renters at each Board meeting and will be contacting CLS who is ready to present a program for outreach.

Board Member Hart asked if the Board was into the reports of the committees.

Chair Dorn responded that that's what she had said when they started.

Board Member Hart asked if the Board was into the reports of the committees.

Board Member Hart asked if the Board was supposed to start with the Operations and Excellence Committee report.

Chair Dorn said that she was handling the agenda.

Board Member Hart asked if the Board could get some continuity here.

Board Member Allen said he would help the Chair get her bearings after Mr. Hart's...

Chair Dorn: "Rebellion."

Board Member Hart said it was not his rebellion. He said it was like Chair Dorn's rules. He said she let Mr. Allen talk for two days and a week and that she let Mr. Williams (sic) talk for three days and a week.

Chair Dorn said that the Board had to have somebody to take people out of the meeting if they acted inappropriately.

Board member Hart said twice, he wished they would.

Board Member Allen said to the Chair that she was asking the Board members to comment on any issues that were of interest.

Chair Dorn said that she thought she had asked for issues and meetings that Board members had attended. She asked Mr. Allen if he wanted to talk about the Rules and Regulations meeting or any other meetings he had attended.

Board Member Allen said that Chair Dorn didn't get to the staff and that she was asking the Board members to comment on any issues that were of interest.

Chair Dorn responded she asked for issues and reports on meetings they attended.

Board Member Allen noted that Chair Dorn did not get to staff and their general comments, saying that usually after the Chair gets comments from the Board members the chair asks the staff.

Chair Dorn asked for staff comments.

Board member Hart said not to forget protocol.

City Attorney Alvarado reminded the Board to be cautious with regard to discussions that are not on the agenda, in order to comply with the Brown Act.

Staff Ford reported that at the last meeting, Board Member Hart delivered a request from another person to have staff look into work being done at a residence in East Palo Alto. He believed it was 1902 Capital. He and Staff Lee went out to the property, and Staff Lee spoke to the Chief Building Inspector. The property showed two units, and the Building Inspector indicated there was no record of additions of other units. With regard to Page Mill Properties, Staff did send letters to Wells Fargo letting them know what is owed; a total of over \$300,000 was invoiced which was increased to over \$700,000 as of July 2 due to the penalty. Staff Lee authorized him to report that the City Manager informed Wells Fargo of the fees and penalties that are due.

Board Member Allen reported that Page Mill Properties did not leave Wald Realty any computerized records, so they will need to reenter information from hard copies. Wald Realty might be asking Staff Ford for a spreadsheet showing the maximum certificate amounts based on the unit number and address.

- a. Operational Excellence (**Allen**, Mitchell & Hernandez) – No report
- b. Outreach/Education (Dorn & Hart)

Board Member Hart reported that the Outreach/Education Committee met earlier in the day and talked about the brochures and having them printed professionally. The Committee also talked about interfacing with Community Legal Service (CLS) and entering into a contract for them to provide services. The goal is to have a presentation from CLS on October 28. The priorities for the four brochures were (1) eviction; (2) security deposits; (3) filing petitions; and (4) habitability.

Chair Dorn said the Committee discussed having an email that went directly to the Rent Board office.

- c. City Council Liaison (Hart & Mitchell) – No report
- d. Rules and Regulations (**Webster**, Allen & Randolph)

Board Member Webster reported that the Committee has not met; Board Member Allen suggested the Committee could have a preliminary discussion of the new tenant form and current registration form. His suggestion was that a meeting be held one hour prior to the Board Meeting on October 14. Staff Ford was asked to prepare the meeting notice.

- e. Budget Committee (Dorn & Allen) – No report
- f. Technology Committee (**Mitchell**, Allen & Randolph) – No report

10. ADMINISTRATIVE ITEMS

11. WRITTEN COMMUNICATIONS

Board Member Allen said that any proposal coming from CLS should come to the Board in writing.

Board Member Hart asked if chair Dorn was going to contact Staff Ford.

Chair Dorn said she would.

Chair Dorn acknowledged the communication from Matthew Fremont which was referenced earlier in the meeting by Mr. Fremont.

Board Member Allen asked if letter from Fremont needed to be read into the record.

Chair Dorn read the second paragraph aloud.

12. COMMUNITY FORUM

There were no members from the community who wished to address the Rent Board.

Chair Dorn asked that the Community Forum item be moved up on the agenda so that members of the community do not have to wait to the end of the meeting to speak.

Board Member Allen said that the Board was required to follow the agenda format in the Rules and Regulations.

Chair Dorn said that the order of the agenda could be voted on at each meeting.

13. RECOMMENDATIONS FOR FUTURE ACTIONS

Items include discussion of putting Community Forum earlier in the meeting, the new tenant registration form, changing the Budget and Technology Committees to ad hoc committees.

14. ADJOURNMENT

There being no further business, the meeting adjourned at 9:03 p.m.