

**CITY OF EAST PALO ALTO  
RENT STABILIZATION BOARD MEETING  
WEDNESDAY, DECEMBER 9, 2009  
REGULAR SESSION  
2415 UNIVERSITY AVENUE  
City Council Chambers  
EAST PALO ALTO, CA  
Minutes**

**1. CALL TO ORDER**

Chair Dorn called the meeting to order at 7:10 p.m.

**2. ROLL CALL**

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

Board Member Allen announced that he would be sitting in the Tenant Representative seat.

Chair Dorn welcomed Mr. Ewing, City Attorney.

**3. APPROVAL OF AGENDA**

Chair Dorn removed item 5.2, Discussion of possible development of Rules of Conduct for Board members, as Board Member Mitchell was going to make the presentation. A report from Mr. Ewing regarding negotiations with Wald Realty was moved from item 9 to item 5.2.

Board Member Allen asked that item 12, Community Forum, be moved ahead of item 5.

**Motion:** It was moved (Hernandez) and seconded (Hart) to approve the agenda, as modified. Motion passed unanimously.

**4. APPROVAL OF MINUTES**

- Minutes for the October 28, 2009, RS Board meeting

Board Member Allen made a change to page 4, in both the first two paragraphs, "...Homeowner alternate to sit ~~on~~ in the Tenant or Landlord..."

**Motion:** It was moved (Allen) and seconded (Hernandez) to approve the minutes for the October 28, 2009, RS Board meeting, as modified. Motion passed with one abstention (Webster).

**12. COMMUNITY FORUM**

A member of the public addressed the Board expressing concerns about the rents in East Palo Alto.

Chair Dorn said that she understood the speaker to express concerns about rents in East Palo Alto and if they are continuing to go up. She said responded that a landlord can set whatever rent it wants when a new tenant comes in; from then on, the rent for that tenant can only be increased at the rate the Rent Board sets each year. She said that last year the allowed increase was a little less than 1% and that it had been as high as 3.5%. She said that there would be a rent adjustment in the next year based on the Consumer Price Index and that the Board does not have that number yet. She said that the rents would not go up until June and that the tenant would get a copy of the Rent Certificate that would tell what the maximum rent could be. She said that if the tenant found that he was being charged a different amount other than the maximum allowed that the tenant could petition on at the Rent Board office for a review of his rent.

## 5. AGENDIZED ITEMS FOR POLICY AND ACTION

### 5.1 Follow-up discussion on presentation by Community Legal Services (CLS) on proposed outreach and education activities that could be carried out by CLS.

Victor Ramirez, CLS, 2117 University Avenue, was present to answer any questions regarding the proposal.

Chair Dorn expressed satisfaction with the proposal.

Board Member Hart wanted to see something offered to landlords, such as a guide for them to use.

Chair Dorn noted that CLS has pointed out in the past that a guide for landlords would be a conflict of interest for CLS; however, she felt it was incumbent on the Rent Board to get information printed for the landlords as well as setting up workshops for landlords.

Board Member Hart stated again that he thought that something needed to be developed for the landlords. And Board member Hart asked Mr. Ramirez to confirm that the proposed budget had been increased by \$4,200.00.

Mr. Ramirez of CLS confirmed saying that CLS was proposing to subcontract with YUCA to do a survey of tenants.

Staff Lee pointed out that the approved budget included \$21,000 in a line item for outreach and education for tenants, and \$10,000 was approved for outreach specifically for landlords.

Board Member Hart suggested that the Rent Program develop a brochure.

Chair Dorn commented that the Board would take \$4,200 from the budgeted amount for landlords; the brochure and survey would provide information for landlords as well as tenants. Workshops would be aimed at tenants but anyone would be able to attend.

Staff Lee recalled that several years prior, a workshop/training was held for landlords.

Board Member Allen questioned whether \$5,000 would be sufficient for another landlord workshop.

Staff Lee responded that he would research what the actual cost would be and provide the Board with a response at the next meeting.

Board Member Allen had no problem with the proposal, noting it was in line with the last proposal from CLS. His concern was that the Board follow procedures in terms of Requests for Proposals (RFP).

Staff Lee commented that direction from the City Attorney was needed because the amount indicated in the contract was \$4,200 over what was approved in the budget.

Board Member Allen suggested that the Board ask Mr. Lee to make a request of the City Manager to move funds from the landlord workshops to the tenant workshops.

City Attorney Ewing agreed it was feasible for staff to administratively make the request of the City Manager.

**Motion:** It was moved (Hart) and seconded (Hernandez) to accept the outreach proposal from Community Legal Services (CLS) in the amount of \$21,000. Motion passed with one abstention (Webster).

City Attorney Ewing suggested that staff hold a conversation off line with the City Manager regarding moving the \$4,200 around in the budget.

Board Member Allen asked whether the City would write a contract based on the proposal.

City Attorney Ewing responded that the City Attorney's office could draft a contract, or the vendor can submit a proposed contract to the City Attorney's office for review.

Mr. Ramirez commented that CLS will submit a proposed contract.

## 5.2 Status report from Legal Counsel on Negotiations with Wald Receiver

City Attorney Ewing reported that a meeting was held with Wald Receiver and property managers of Wells Fargo and Wachovia to discuss the status of the Page Mill Properties. The Receiver's attorney, David Pasternak, suggested an additional meeting with the City and stakeholders to further discuss a settlement. Nothing in writing was presented to the City at that time. Following that, Mr. Wald and Mr. Pasternak met with City staff and members of the community; another meeting was held with City staff and other agencies such as Menlo Park Fire District. He, along with the City Manager, Mayor Abrica and Vice Mayor Woods, met with Mr. Pasternak and Mr. Wald to talk in more detail about the terms being proposed by Mr. Pasternak. The City acted as a receiver of information. Mr. Pasternak submitted a formal, written settlement, which the City Council considered in

closed session. The Mayor, Vice Mayor, City Manager and City Attorney would meet with Mr. Pasternak and Mr. Wald to discuss the City's position on each point with respect to the pending litigation. The negotiation strategy would also include the City's consideration of the interests of the various stakeholders. To date, he has met with Stanford Legal and YUCA. The Fair Rent Coalition has agreed to submit their position to him in writing tomorrow. The goal is to have the positions of the Rent Stabilization Board, Fair Rent Coalition, YUCA and Community Legal Services in writing for the City Council to consider in closed session. He reiterated that no negotiations have taken place to date.

Board Member Hart asked whether a new document should be created that would combine the Board's thoughts.

City Attorney Ewing explained that would not be necessary; he met with Chair Dorn and received more information, which he will compile and submit for Council consideration. His intent is to act as a compiler of information rather than analyze the different positions. His goal was to take a global view of the litigation and settlement negotiations.

Board Member Allen commented that the key thing he wanted to see as part of the settlement agreement was that the City get full cooperation from the Receiver and its delegates to cooperate with the Program and provide the information requested in the registration statement and to start to file vacancy registration forms.

City Attorney Ewing encouraged Board Member Allen to continue to articulate his position at the City Council meetings.

Chair Dorn reiterated the Board's position on penalties and registration fees; she wanted that used as a bargaining chip and that Wald/Page Mill understands that penalties are accruing when registration fees have not been paid.

Re' Anita Burns, 2181 Capital, submitted a letter from YUCA.

Board Member Allen noted that the request from YUCA was asking for a blanket roll back of all rents to 2006 rates. He did not believe that was possible to do that except in cases that can be identified as being appropriate.

### 5.3 Discussion of status of possible changes to Rent Stabilization and Good Cause for Eviction Ordinance

Chair Dorn explained that she requested this item but was not prepared to discuss it.

Board Member Allen commented there might have been an update at the last Committee meeting but he was not in attendance at that meeting.

Board Member Webster commented that the Committee discussed the request of Vice Mayor Carlos Romero to add an item to each subsequent Council agenda; however, there was no new information.

City Attorney Ewing indicated he was unaware of any substantive changes to the Rent Stabilization Ordinance (RSO). The environmental review is being completed by the Planning Department, and an expert to analyze the California Environmental Quality Act (CEQA) issues raised by Page Mill has been identified. Staff needs authorization from the City to obtain the expert to do the work.

Board Member Allen questioned whether the text of the current RSO was available on the City's website.

City Attorney Ewing was unsure but indicated he would check.

Chair Dorn indicated she would do her homework and have more information at the next meeting.

#### 5.4 Discussion on proposed changes to Rules and Regulations Section 1600 (issuance of Certificates of Maximum Legal Rent)

Board Member Webster reported that on December 2, the Rules and Regulations Committee met to consider proposed changes to Section 1600. The changes with regard to a new tenancy annual registration, appeals, and notice on certificates were included in a document presented by Mr. Matthew Fremont. The consensus of the Rules and Regulations Committee was to request that the Board consider a motion to initiate the process of noticing the changes to Section 1600.

Matthew Fremont, 1986 Euclid, spoke about the changes to Section 1600; the main intent is to make the procedure for de-control very plain in the Rules and Regulations.

Board Member Allen pointed out that Mr. Fremont and Mr. Oberle are proposing to delete the current Section 1600 a, b, and c and replace it with the current Section 1600 a-f.

Board Member Webster commented that the expectation was that there would be a legal staff report commenting on the proposed changes prior to voting on it.

Board Member Allen suggested that Mr. Ewing include reference to Costa-Hawkins in his staff report.

Chris Lund, 1643 Woodland Avenue, addressed the importance of moving forward with the changes to Section 1600. With regard to Ms. Burns' comments about rolling rents back, his understanding was that the Receiver was in a position to roll rents back in the course of negotiations.

Chair Dorn asked about the possibility of having the first reading of the ordinance at the first meeting in January.

Staff Ford pointed out that in the past, Ms. Armento prepared a notice which included a brief summary of the rule changes. That notice would have to go to the newspaper on or before December 22 in order to be published no later than December 24.

City Attorney Ewing agreed that the December 22 date would not work due to the amount of work that needs to be done in advance.

**Motion:** It was moved (Webster) and seconded (Allen) to accept the changes to Section 1600 and that staff be asked to bring back a formal presentation with first reading of the Rules and Regulations at the second meeting in January. Motion passed unanimously.

5.5 Discussion on proposed changes to Rules and Regulations Series 1000  
(establishment of Base Rent)

Board Member Webster commented that the proposed changes were not discussed at the December 2 meeting; Mr. Fremont had indicated he would send them to the Board's attention following that meeting. His understanding is that the proposed changes complement the changes proposed for Section 1600. His position was that the Board move to adopt the changes,

Board Member Allen indicated at the December 2 meeting that the revisions to Section 1600 would be more appropriately placed in Section 1000. He explained that one year prior he had made the suggestion to place the reference to Costa-Hawkins in Section 1600; however, after reviewing the Berkeley website to see where they referenced Costa-Hawkins, his recommendation is to put it in Section 1000, which talks about base rents.

Matthew Fremont explained that the changes to Section 1000 were discussed informally at the Rules and Regulations Committee meeting, and he submitted a written draft at that meeting. He informed the Board of a recent class action in San Francisco where landlords offered promotions to the tenants where tenants signed a contract for an initial higher rent but rebates were given over the first year of the tenancy; when leases were up, the rebates went away and the landlord tried to collect the higher rent in the contract and an increase on top of that. The tenants' class action prevailed, and the landlord was ordered to refund and make corrections to the tenants.

Board Member Hart felt that the change would create more work for the Rent Program, and he was not inclined to vote for the change.

**Motion:** It was moved (Webster) and seconded (Allen) to move forward with the proposed changes to Section 1000 and 1002 and that a first reading be held as soon as possible. Motion passed with one abstention (Hart).

5.6 Discussion of wording of letter going to property owners regarding demand  
for payment of delinquent rental registration fees and penalties

Board Member Allen questioned whether the letter had been sent out.

Staff Ford responded that the letter went out on September 17, 2009.

Board Member Allen suggested that if a second letter is sent out, it should include reference to the fact that the Board has the power to put liens on properties when fees are not paid.

Board Member Hart suggested that the Board direct staff to formulate a letter with the additional information about liens.

City Attorney Ewing commented that based on the wording of this agenda item, the Board can take action to direct staff to prepare a subsequent letter that includes language about liens.

Board Member Allen suggested that an item for the January agenda include a discussion and action directing staff to place liens on properties in default of paying registration fees and/or penalties.

Matthew Fremont, 1960 Euclid, supported the Board taking action to place liens on properties because liens would make transferring property difficult.

**Motion:** It was moved (Webster) and seconded (Allen) to move forward with adding a proviso in a second letter to landlords regarding liens on noncompliant properties. Motion passed unanimously.

**6. CONSENT CALENDAR**

**7. PUBLIC HEARING**

**8. RESOLUTIONS or RULES**

**9. REPORTS OF COMMITTEES AND STAFF**

Board Member Hart reported that a Holiday Toy Giveaway would be occurring on December 12 for about 300 children. He asked if anyone was interested in volunteering to let him know.

Board Member Webster suggested that the Rent Board consider drafting a letter of appreciation to Legal Counsel Rafael Alvarado who has taken a position with another agency. He announced that a celebration will be held Friday acknowledging the 20<sup>th</sup> Anniversary of the founding of the East Palo Alto Council of Tenants Education Fund. The event will occur at the Palo Mobile Estates Recreation Hall.

- 9.1 Report out from RS Board Members and Committees:
  - a. Operational Excellence (**Allen, Mitchell & Hernandez**) – No report
  - b. Outreach/Education (**Dorn & Hart**)

Board Member Hart reported that the Committee discussed the proposal which was on the Board agenda.

Chair Dorn commented that she had contacted Staff Ford about redoing the brochures in a more professional manner.

Staff Ford responded that he received a layout cost of \$250-350, but did not have the cost for the actual printing.

- c. City Council Liaison (**Hart & Mitchell**)

Board Member Hart reported that he and Board Mitchell will meet in January to refine the Committee.

d. Rules and Regulations (**Webster, Allen & Randolph**)

Board Member Allen reported discussing at the Rules and Regulations Committee meeting that there be a back up registration process whereby tenants provide information to the Board when owners do not comply with the registration form requirements

**10. ADMINISTRATIVE ITEMS**

**11. WRITTEN COMMUNICATIONS**

**12. COMMUNITY FORUM (moved after item 5)**

**13. RECOMMENDATIONS FOR FUTURE ACTIONS AND AGENDA ITEMS**

Items include discussion and action on taking liens, information on changes to Measure M, staff report on approval for additional \$4,200 for the tenant/outreach program for CLS, Rules of Conduct, and letter to Rafael Alvarado.

**14. ADJOURNMENT**

Upon motion by Hernandez/Hart, the meeting adjourned at 9:24 p.m.