

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
FULL BOARD SPECIAL MEETING**

January 26, 2023

5:00 P.M.

VIA ZOOM CONFERENCE

OAKLAND, CA

MINUTES

1. CALL TO ORDER

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order by Chair Oshinuga at 5:01 p.m.

2. ROLL CALL

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

*Chair Ingram joined the meeting at 5:55 pm.

Staff Present

Kent Qian

Harman Grewal

Linda Moroz

Briana Lawrence-McGowan

Mike Munson

Deputy City Attorney

Business Analyst III (HCD)

Hearing Officer (RAP)

Administrative Analyst II (RAP)

KTOP

3. PUBLIC COMMENT

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

4. CONSENT ITEMS

- a. Approval of Board Minutes, 1/12/2023: Member J. deBoer moved to approve the Board Minutes from 1/12/2023. Chair Oshinuga seconded the motion.

The Board voted as follows:

Aye: C. Oshinuga, E. Torres, T. Williams, R. Nickens, J. deBoer
Nay: None
Abstain: None

The minutes were approved.

5. APPEALS*

- a. T19-0184, Beard v. Meridian Management Group

Chair Oshinuga announced that this appeal hearing has been postponed.

- b. T19-0326, Williams v. Crane Management

Appearances: Jill Broadhurst Owner Representative
Phala Williams Tenant

This case involved an owner appeal, and this is the third time that this case has been appealed to the Board. This case began with a tenant petition that was filed in June 2019, claiming that the tenant never received the RAP notice, and claiming code violations that alleged decreased housing services regarding a roach infestation. The Hearing Officer initially found that there was no RAP notice and granted the decreased housing services claim for the infestation. On the first owner appeal, the Board remanded the decision back to the Hearing Officer, who reviewed the evidence regarding the RAP notice and the charges, and the Hearing Officer again found that the tenant had never received the RAP notice. The Hearing Officer also reviewed the decrease housing services claim and left the word unchanged. The owner appealed the remand decision and on the second appeal, the Board remanded the case back to the Hearing Officer for recalculation of the restitution amount for decreased housing services based on O.M.C 8.22.090.A3b, restricting the restitution period to 90 days prior to the petition being filed and up until unit 206 was vacated. On remand, the Hearing Officer found that the unit was untenable during the infestation period and that

the unit had no rental value during the infestation period pursuant to California Civil Code § 1942.4. The Hearing Officer awarded restitution in the amount of \$977 per month, the entire rental amount, for the months of March 1st, 2019, to October 31st, 2019. The owner appealed the remand decision, arguing that the Hearing Officer was supposed to recalculate the restitution period, but instead the Hearing Officer exceeded the scope of the remand by finding that the unit had no rental value. On appeal, the owner asked for the decrease housing services amount to be capped at 12.5% based on work conducted by the owner to eradicate the problem and requested that the remand decision address underpayment by the tenant since June 2020.

The following issue was presented to the Board:

1. Did the Hearing Officer exceed the scope of the remand by finding the unit untenable and finding that the reasonable rental value of the unit was \$0?

The owner representative contended that OTPG is the acronym for the current owners, that Crane Management was the previous property management company, and that there was a sale during this entire transition. The owner representative argued that during the last appeal hearing, evidence was presented that proved the calculation had not been done appropriately because the RAP notice had not been taken into account. The owner representative contended that the tenant is claiming that she never received the RAP notice, but the tenant has filed other cases and admitted that she had received the RAP notice. The owner representative contended that the Hearing Officer took the case back and then determined something different, that you cannot retry a case when a decision has been made, and that this was not due process because neither the plaintiff nor the defendant had an opportunity to reply.

The owner representative argued that a Senior Hearing Officer needs to correctly amend what is owed. The owner representative contended there were damages that were awarded by the Hearing Officer in her original decision, and that the owners asked for that to be reviewed given the fact that the RAP notice had been served and because there was a time limit of 90 days. The owner representative argued that this was not done, and that instead, the Hearing Officer awarded an entirely different amount. The owner representative contended that they keep appealing because the Hearing Officer is not reading and following what has been decided by the Board and that the only remedy was to appeal again.

The tenant contended that the owners haven't abided by any of the judgments and that she doesn't understand how the owners keep being allowed to appeal. The tenant argued that the Board made a decision and that to this day, pest control still comes to the property once per week. The tenant contended that when she moved downstairs, all she did was move into a newly renovated and

infested unit. The tenant argued that she found a hole behind her refrigerator, which is where roaches were coming in from, and that the owners never closed the hole.

After parties' arguments, questions to the parties, and Board discussion, Member J. deBoer moved to remand the case back to the Hearing Officer to recalculate the restitution based on the Hearing Officer's original table that was included in the Remand Decision dated for February 17, 2022, and to limit the timeframe from March 27, 2019, to October 12, 2019. Member T. Williams seconded the motion.

The Board voted as follows:

Aye: C. Oshinuga, E. Torres, T. Williams, R. Nickens, J. deBoer
Nay: None
Abstain: D. Ingram

The motion was approved.

6. INFORMATION AND ANNOUNCEMENTS

- a. Board Training Session—*Measure V Overview*: Deputy City Kent Qian gave an overview of Measure V and explained to the Board how this will impact the Just Cause for Eviction Ordinance. Topics discussed included:
 - Voter Results for Measure V
 - Key Changes (new construction- 10 year rolling exemption, RV and tiny homes covered, removal of failure to sign new lease as just cause, protects children and educators from eviction during the school year)
 - Effective date
- b. Chair Ingram and fellow Board members thanked Member Williams for his service, as his term will be ending next month.

7. SCHEDULING AND REPORTS

- a. Deputy City Attorney Kent Qian reminded the Board that they may have to return to in-person meetings in March because the governor intends to lift the statewide emergency order at the end of February.

8. OPEN FORUM

- a. James Vann from the Oakland Tenant's Union spoke and stated that

Member Williams can continue to be a Board member for an additional year if he chooses to, or up until an appointment has been made to replace him. James Vann stated that the Board remanded tonight's appeal case back to the Hearing Officer, that the City Attorney had indicated that if it was only a matter of calculation, the Board could've directed staff to make that recalculation, and that would've been the final decision of the Board. James Vann stated that by remanding the case to the Hearing Officer, the Remand Decision can be appealed again. James Vann mentioned that appeals can go on continuously, as long as the decision comes from a Hearing Officer. James Vann also stated that if a Hearing Officer decides that there is a new element that needs to be taken into account in a decision, the regulations give the opportunity and responsibility to the Hearing Officer to petition the Board if there were any new issues that had had not been considered. James Vann stated that he thinks it would be helpful if the presiding officer summarized to the parties petitioning the item that is before the Board and the item that they will be voting on to help them target their comments specifically to the item that's being presented. James Vann also mentioned that the Efficiency Ordinance specifies changes in testimony times by the parties during appeal hearings and that it is not being implemented.

9. ADJOURNMENT

- a. The meeting was adjourned at 6:35 p.m.