

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

**PANEL Meeting
September 29, 2016
7:00 p.m.
City Hall, Hearing Room #2
One Frank H. Ogawa Plaza, Oakland, CA**

MINUTES

1. CALL TO ORDER

The HRRRB Panel was called to order at 7:00p.m. by Panel Chair, Ed Lai

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Ubaldo Fernandez	Tenant	X		
Ed Lai	Homeowner	X		
Karen Friedman	Owner	X		

Staff Present

Richard Illgen	Deputy City Attorney
Barbara Kong-Brown	Senior Hearing Officer

3. OPEN FORUM

No speakers

4. NEW BUSINESS

- i. Hearing in appeal cases:
 - a. T15-0075, Aguila v. Stewart
 - b. T15-0299, Tereshkin v. Meagher
 - c. T15-0429, Sabrah v. Beacon Properties

a.T15-0075, Aguila v. Stewart

Appearances:

Owner Appellant

Greg McConnell Owner Representative

Tenant Appellee

Thomas Dubberke Tenant Representative

The owner representative contended that Jeanne Robertson, the property manager, testified during the Hearing that she served the Notice of Change in Terms of Tenancy on the tenant by either posting it on his door or slipping it under his door and mailing it to him. She also signed a Proof of Service titled Certificate of Service of Notice to Tenants which states that she affixed a copy on June 2014, in a conspicuous place and mailed a true copy of said Notice to the tenant. There are 34 other tenants who received the notice of rent increase and only one other tenant filed a late petition which was dismissed administratively.

The tenant representative contended that the Hearing Officer stated that she believed the tenant's testimony that he did not receive the Notice of Change in Terms of Tenancy. Service pursuant to Section 1013 of California Code of Civil Procedure was defective because the proof of service did not identify the notice that was served.

Board Discussion

After Board discussion and questions to both parties, K. Friedman moved to remand the Hearing Decision on the grounds that the proof of service was adequate, and the testimony of the property manager should be given more weight. The Hearing Officer invalidated the increase on a technicality and the case should be heard on its merits. There was no second and the motion failed.

U. Fernandez moved to affirm the Hearing Decision based on the Hearing Officer's rationale. E. Lai seconded.

The Board Appeal Panel voted as follows:.

Aye: U. Fernandez, E. Lai
Nay: K. Friedman
Abstain: 0

The Motion carried.

b.T15-0299, Tereshkin v. Meagher

Appearances

Owner Representative

Harold Jaffe

Tenant Representative

Paul Turley

The owner representative contends that the owner, Mr. Jaffe, is 91 years of age; that he is the attorney of record for him, and he did not receive Notice of the Hearing. The notice was only sent to the owner. The Supreme Court in Elston v. City of Turlock, held that the law strongly favors disposition on the merits.

The tenant representative contends that the notice was sent to the owner.

The notice of hearing was not sent to the attorney for the owner.

After Board discussion and questions to the parties E. Lai moved to remand the Hearing Decision for a hearing on the merits because the owner's attorney did not receive Notice of the Hearing, and the owner's attorney should be notified of the hearing. K. Friedman seconded.

The Board panel voted as follows:

Aye: U. Fernandez, E. Lai, K. Friedman

Nay: 0

Abstain: 0

The motion was approved by consensus.

c. T15-0429, Sabrah v. Beacon Properties

The hearing on this case was postponed. The owner and his representative appeared and stated that they were not advised of any postponement. A review of the file indicates that the notice of postponement was only sent out two days prior to the appeal hearing, and no one contacted the owner of the postponement. Staff apologized and this matter shall be re-scheduled.

6. ADJOURNMENT

K. Friedman moved to adjourn. E. Lai seconded. The meeting was adjourned by consensus at 8:25 p.m.

