

Minutes

Remote Rent Board Meeting - Held Via Zoom
Tuesday, May 11, 2021

Start time: 5:01pm

II. ROLL CALL (7)

Austin Sims, Homeowner, District 5 - Chair Pro Tem
Barbara Vestal, Landlord, At-Large - Vice Chair Pro Tem
Christopher "Buddy" Moore, Tenant, District 1
Michelle Dunham, Landlord, District 2
Elliott Simpson, Tenant, District 3
Ian McCracken, Landlord, District 4
Elias Kann, Tenant, At-Large

Staff present (4)

Anne Torregrossa, Corporation Counsel
Jessica Hanscombe, Director of Permitting & Inspections
Zachary Lenhert, Licensing & Housing Safety Manager
Katlyn Sawyer, Licensing & Registration Coordinator

III. APPROVAL OF MINUTES OF PREVIOUS MEETING

The Board had approved the minutes with two amendments that -

(F) To take out the last sentence of "It is up to the Board to determine this".

To add the letter (H) where it says that "The Housing Safety Office will be acting as the Board's staff."

Barbara Vestal motioned to accept the Minutes with the above two amendments
2nd by: Michelle Dunham
Vote: 7-0

IV. DRAFT INTAKE FROM WORKING GROUPS

A. Tenant Intake Forms

Anne Torregrossa addressed feedback in regards to the form

1. Type of Complaint
 - Discrimination
 - Tenant wishes to report a violation of the habitability of residential units

-These both are governed by State Law. Tenants can pursue the two above scenarios through the Board but also have rights under State Law to pursue in State Court including as a defense to eviction proceedings

-Anne was concerned that tenants may only use the Board and forego their rights under State Law which would be harmful to tenants.

-Anne's suggestion would be to put an asterisk (*) or disclaimer notifying the tenants that they should also consider pursuing their rights under State Law.

-Anne mentioned that enforcement is not limited to just the Housing Safety office. For example - If a Landlord was to also discriminate against a tenant or a future tenant based on race that is a violation of the Maine Human Rights Act. Tenants have a right to file a complaint with the Maine Human Rights commission. If the tenant fails to do so in a certain amount of time, they lose their ability to do so.

1. It would be the Housing Safety Office pursuing violations of City Ordinance
2. Tenants have rights under State Law to pursue in other avenues, including the Maine Human Rights commission.

2. The checkbox below Type of Complaint that reads "I wish to seek a Rent Board hearing or review regarding my complaint or dispute. Note: Landlord signature is only required if you wish to seek a Rent Board hearing"

-Anne suggested that this be discussed in an Executive Session.

-The Board does not have any jurisdiction outside of a hearing.

-If being filed with both the Housing Safety office and the Board, that is okay because Housing Safety will look into it either way.

-The line at the top of the form states it is only for the Housing Safety office. Anne made a suggestion to clarify the difference between Housing Safety review (Landlord signature not required) and Board review (Landlord signature is required).

The Board has two separate sections to their jurisdiction -

-Rent Increases are A & B - which do not require consent from the Tenant

-Disputes arising between Landlord and tenants do require both parties' consent

An Executive session would be recommended to discuss this more freely

Concerns were raised about another type of complaint "A tenancy-at-will was terminated without giving 90-days notice or without providing an inconvenience fee, in violation of Sec. 6-223".

That a tenant may only use this form to seek action in regards to an eviction

An Executive session would have to be on the agenda as a potential in order to have the opportunity at a public meeting.

During the public meeting, the Board would vote to go into Executive Session. The Board would then come out of Executive Session into a public meeting.

An Executive Session may be done between meetings strictly for "purpose of" or at the end of a public meeting.

The tenant complaint form can be found on Housing Safety's website. If a tenant calls the Housing Safety office, staff will send them this form as well. The form could potentially be added to the Rent Board's page as well. Once the Housing Safety office opens back up to the public, a tenant could walk into the office and request a paper copy as well.

Clarification was sought for items in the Accommodations section of the form

1. "I would like my personal information to be kept anonymous".

- If the form is only being investigated by Housing Safety, it is not subject to FOAA.

- That is considered a confidential informant report. That could be kept confidential

- If this is a request for a hearing between a Landlord and a tenant, it probably can't be kept confidential. Contact information can be redacted but the person itself may not be able to

- It was suggested that the above two scenarios be explained on the form so that tenants are aware

2. Anne suggested that "Translation needed" be changed to Interpretation Services needed for a hearing - where the City would provide an interpreter.

It was noted in the last meeting that once the forms were finalized, we could have them translated and on hand if requested.

Anne brought it to the Board's attention that public comment is taken during a public comment session. It should be on the agenda as a potential if the Board wishes to have that or that the Board needs to vote for public comment. It was also suggested to have public comment all at once, after the Board comments.

It was suggested by the Board that each individual from the public only has 3 minutes to speak.

Austin Sims motioned for public comment once the Board has ended their discussion on each Agenda item and limiting time for public comment to 3 minutes each.

2nd by Elias Kann

Vote: 7-0

Barbara Vestal made a suggestion to add Religion and Family Status to the discrimination section of Type of Complaints. It was also suggested the discrimination type were listed in same order of the ordinance as well as the wording to make the form more complete.

Anne brought it to the Board's attention in regards to "Tenant wishes to report a violation of the habitability of residential units" under Type of Complaints

- There may be items that are a warranty of habitability violation under State Law but are not a violation of City Ordinances. Housing Safety would not have jurisdiction over those items

- Specifically talking about the Heat item. If the bedroom is freezing, Housing Safety doesn't have jurisdiction over it. If your living room is freezing, then Housing Safety does have jurisdiction.

-If a code violation is reported, Housing Safety must inspect as it's part of their job. However, the tenant can choose to have the Board hear the dispute. The Board is not able to decline the dispute just because Housing Safety is investigating.

-Housing Safety is able to handle civil penalties, summons, and posting a unit against occupancy if uninhabitable

-Warranty of habitability is a civil State Statute that also has remedies that Housing Safety can't award

For example: A judge can reduce the rent for a tenant. Housing Safety cannot do that. The Board cannot do it either, only a Court.

-There are 3 different avenues that can be taken with this

1. Housing Safety investigating a code violation

2. The tenant and Landlord asking the Board to adjudicate a warranty of habitability violation

3. The tenant to pursue legal proceedings in Court to have their rent reduced and similar things for warranty of habitability

The Board requested a diagram from Anne where there may be overlap between City ordinance and State Law so that it can be referenced for tenant's awareness.

-Tenants have other avenues they can pursue and the Board wants to make sure the tenants are aware of those avenues and do not simply rely on the Board if some of those avenues may be more beneficial.

-Anne would be providing a legal memo on all of these items

For example:

-Warranty of habitability - Housing Safety, Civil suit in Court, and the Board

-Discrimination - Housing Safety, Maine Human Rights commission, and the Board

-That these options will be rolled into the disclaimer as discussed earlier to prevent tenants forgoing other rights they may have available to them

6:35pm - Austin Sims invites the public for public comment

No requests for public comment

B. Landlord Intake Form

Anne Torregrossa suggests feedback in regards to the form

1. To include the CBL (Chart, Block, and Lot). It was also suggested to be included on the Tenant Intake Form as well. There can be glitches with addresses and having the CBL can assure that we have the correct address.

2. "Are there 4 or fewer dwelling units in the building..."

There are other exemptions other than just the one mentioned. A Landlord would not be coming to the Board for a rent increase if the unit was exempt.

It was suggested to remove that completely or if you do, to include all exemptions.

3. "Relief Requested" - "Other Relief"

-This is different from the Rent Increase.

For example: If a Landlord was asking the Board to hear a warranty of habitability claim, that is different from a rental increase claim.

-Anne's recommendation would be one form for Rent Increases and one form for the "Other" category where the Landlord would need the tenant's permission. For rent increases, a Landlord would not need a tenant's permission.

4. "If seeking a rent increase, please identify..."

-Back to keeping in track with the Ordinance - Renovation, Reconfiguration, Consolidation, and Capital Improvements (make sure they follow with the Ordinance)

-Consolidation - is not a Rent Board issue, it is dealt with in the Ordinance itself.

-Housing Service costs - to discuss what they may include

Barbara and Michelle have accepted most of Anne's suggestions.

-The multiple street addresses will be removed from the form

-All exemptions will be added

Who determines who is actually a "Landlord" as defined by the Ordinance?

-If there is a dispute, the Board will decide.

-A complaint will come in and Housing Safety will investigate it. Housing Safety will talk to the Landlord and they will decide whether they think it is an exempt unit. The Board may hear the case and come to a completely different conclusion. The Board is not bound by Housing Safety's decision on that but can certainly ask Housing Safety for their opinion. If it happens, we will handle it when we get there.

-The Board may want to draft guidance for applicants at how the Board would look at these scenarios

-The tenant and Landlord will both come in with their own evidence. If the Board asks for something, the Landlord may not have brought it and then it's up to the Board's discretion to make a decision

-With the draft, the Board can make examples of what the tenant should bring and the Landlord

Austin Sims motioned to make determinations for the Agenda of the next meeting and then Adjourn.

2nd by Ian McCracken

Vote: 7-0

Agenda for next meeting on 5/26/21

-Roll Call

-Minutes

-Revised Landlord Intake Form - deadline to Housing Safety office by 5/21/21 12pm

-Higher-level board organizing rules and procedures

-Revised Tenant Intake Form - deadline to Housing Safety office by 5/21/21 12pm

-Rules and evidentiary requirements specifically pertaining to the remit of the Rent Board - deadline to Housing Safety office by 5/21/21 12pm

-Executive Session

2nd by: Elliott Simpson
Vote: 7-0

VI. ADJOURN

Austin Sims moves to Adjourn

2nd by Elias Kann

Vote taken before Agenda was created

End meeting time: 7:13pm