

This Charter Amendment will change the Rent Board from an executive agency established by statute to a charter organization governed by the City's Charter. Most importantly, under the new charter amendment, the Board of Supervisors shall be allowed to appoint three Commissioners, the Mayor shall appoint three Commissioners, and the Mayor and Board President will together appoint one Commissioner. The Commissioner make-up shall consist of three tenant reps, two landlord reps, and two neutral members. The effect of this ballot initiative will be disastrous for our industry.

HOW THE BOARD CURRENTLY FUNCTIONS: Since 1979 to the present time, the Rent Board Commission is comprised of five voting members (each member has an alternate): two landlords, two tenants, and one neutral. The Mayor appoints each of the members, and, since the 1990s, all Mayors have diligently solicited input from the various industry groups before making an appointment. At the present time, and for the past decade, the Board has functioned very effectively.

The Board hears appeals that come before it. Any party who loses a hearing before the Rent Board's Administrative Law Judge may file an appeal. The Board meets one or two times per month, and typically hears about ten to fifteen appeals per session. Many appeals are resolved by a 5-0 vote, meaning the Board Commissioners follow the law and fairly apply the rent regulations to each case. Occasionally, political banter enters into the arena, but generally the Board's decisions are fair and lawful. This conclusion is supported by the fact that there are very few writs (legal challenges) filed against the Board in Superior Court, and of those writs that have been filed over the past decade, almost every Board decision has been affirmed by the Superior Court (and Court of Appeal). In other words, the system actually works.

WHAT THIS MEANS TO THE INDUSTRY: We believe that all seven Commissioners under the proposed new structure will be pro-rent control. There are many landlords in the City who harbor pro-rent control views, so there will be no shortage of "landlord commissioners" who can be appointed by the Mayor and Board of Supervisors. In addition, there has been a push for neutral Commissioners who are, in fact, not neutral but share the progressive ideology of pro-rent control. Only once, for a short period of time, have we had a non-neutral Commissioner, and then-Mayor Brown quickly rectified the situation. The current landlord Commissioners David Gruber and Bart Murphy, Neveo Mosser and Jim Hurley will be, in our opinion, quickly dismissed, as they are true landlords who appreciate the needs of our industry.

Under the new plan, you can expect that all hearing decisions rendered in favor of the landlord to be immediately appealed. (Remember, landlords only have 2 members, while tenants have 3.) At the Commissioner level, the progressive Rent Board Commissioners will unanimously overrule important pro-owner decisions. Then you, as the owner, will be compelled to either accept this result or to spend substantial resources suing the Rent Board in Superior Court and the California Court of Appeal, where the Rent Board is defended by the City Attorney and the decisions will most likely be upheld.

Stated succinctly, expect very bad and binding decisions on very important matters such as: (1) Section 1.21 petitions (principal place of occupancy); (2) Section 6.11 petitions (rental adjustments because of special circumstances); (3) tenant harassment petitions; (4) capital pass-through and O&M petitions; and (5) decrease in housing services petitions. This means that tenants will get their rents reduced en mass, while we lose our abilities to raise rent. Here's another problem: The Rent Board is afforded wide latitude to enact rules and regulations, such as 6.11 and 1.21. We expect those rules to be severely modified or even eliminated.