

RENT STABILIZATION BOARD
Regular Meeting
Thursday, February 18, 2021
7:00 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City of Berkeley Rent Stabilization Board (Rent Board) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, **there will not be a physical meeting location available.**

To access this meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device by clicking on this URL: <https://zoom.us/j/94935840413?pwd=VFNXtm9MN2RYy1VPbW1UVmlWanJudz09>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "Raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-669-900-6833 and enter Meeting ID: 949 3584 0413 and Passcode: 417409. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

To submit an e-mail comment to be read aloud during public comment, email amueller@cityofberkeley.info with the Subject Line in this format: "RENT BOARD MEETING PUBLIC COMMENT ITEM." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 5:00 p.m. on the day of the meeting in order to be included.**

Please be mindful that this meeting will be recorded, and all other rules of procedure and decorum will apply for Rent Board meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with Government Code Section 54953, 54956, and all current state and local requirements allowing public participation in meetings of legislative bodies. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Matt Brown, Acting Executive Director, at (510) 981-7368. The Rent Board may take action related to any subject listed on the Agenda.

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|---------------|
| AGENDA |
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*Times allotted for each item are approximate and may be changed at the Board's discretion during the course of this meeting.

1. **Roll call** – 1 min.*
2. **Approval of Agenda** – 1 min.*
3. **Public Comment** – 2 min. per speaker for *non*-agendized items*
4. **CONSENT ITEMS** – 1 min.*
 - a. Approval of the January 21st regular meeting minutes
5. **SPECIAL PRESENTATION**: Honorary Resolution 21-02 to be presented to Gus Newport, former City of Berkeley mayor, in honor of Black History Month – TO BE DELIVERED
6. **Public Comment** – 2 min. per speaker for agendized items*
7. **ACTION ITEMS**
 - a. **From Board Members, Committees, and Executive Director**
 - (1) Discussion and possible action regarding Mid-Fiscal Year Budget Report and recommendation to adopt Resolution 21-01 which would adjust the staffing model to add a permanent Community Services Specialist II (Housing Counselor) to the Public Information Unit (Acting Executive Director and Budget & Personnel Committee) – 25 min.*
 - (2) Proposal to approve staff recommendations on the following requests for waivers of late registration penalties (Acting Executive Director) – 10 min.*

Ministerial Waivers

| <u>Waiver No.</u> | <u>Property Address</u> |
|-------------------|-----------------------------|
| 4931 | 1520 Woolsey Street |
| 4935 | 2317 Le Conte Avenue |
| 4936 | 1327 Haskell Street |
| 4938 | 1412 Kains Avenue |
| 4939 | 2411 6 th Street |

Discretionary Waivers

| <u>Waiver No.</u> | <u>Property Address</u> |
|-------------------|-----------------------------|
| 4933 | 1819 9 th Street |
| 4937 | 1232 Ashby Avenue |

8. INFORMATION, ANNOUNCEMENTS AND NEWS ARTICLES

Please Note: The Board may move Information Items to the Action Calendar.

a. Reports from Board Members/Staff

- (1) Update on the Registration Unit's January billing of penalties for late or unpaid registration fees (Acting Executive Director) – 3 min.*
- (2) Measure MM implementation update (Acting Executive Director) – 15 min.*
 - a. February 2021 Measure MM mailing to 1,675 owners of rental properties subject to Measure MM
 - b. [New Rent Board Registration webpage](#) -- Information for all types of registration
 - c. [New Measure MM Registration webpage](#)
 - d. [New Fully-Covered Rental Registration webpage](#)
- (3) Update on SB 91 Fact Sheet [COVID-19 relief: tenancy; federal rental assistance] (Acting Executive Director & Legal Staff) – 5 min.*
- (4) Update on recent Rent Board outreach events (Acting Executive Director) – 3 min.*
 - a. February 17th COVID-19 Update Webinar (10:00 - 11:30 a.m.)
- (5) [Discounted Rent offer information on the Rent Board website](#) (IRA/AGA/Registration Committee) – 3 min.*
- (6) January 31, 2021 *San Francisco Chronicle* article by Tatiana Sanchez, Catherine Ho and Mallory Moench titled, "California says equity is vital for vaccine distribution. But data is almost nonexistent" (Commissioner Chang) – 1 min.*
<https://www.sfchronicle.com/bayarea/article/California-says-equity-is-vital-for-vaccine-15910955.php>
- (7) Date to submit agenda topics for March 18, 2021 Rent Board meeting: Monday, March 8th

9. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget and Personnel – 3 min.*
(1) January 28th agenda
- b. Eviction/Section 8/Foreclosure – 5 min.*
(1) February 11th agenda
- c. Habitable & Sustainable Housing (HASH) – 3 min.*
- d. IRA/AGA/Registration – 5 min.*
(1) February 9th agenda
- e. Outreach – 5 min.*
(1) February 10th agenda
- f. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District – 3 min.*
- g. 4 x 4 Joint Committee on Housing: City Council/Rent Board – 3 min.*
Next meeting date: Wednesday, February 24th at 3:00 p.m.
- h. Ad Hoc Committee on RSB Technology Issues – 3 min.*
- i. Updates and Announcements – 3 min.*
- j. Discussion of items for possible placement on future agenda – 3 min.*

At this point, the Board will adjourn to reconvene in closed session. Following their return to open session, the Chair will publicly announce any reportable action taken.

CLOSED SESSION:

Pursuant to California Government Code Section 54956.9(d)(1), the Board will convene in closed session for an update on litigation as follows:

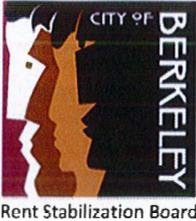
- *Marowitz v. City of Berkeley Rent Board* (Alameda County Superior Court Case #RG19042977)
- *Magganas v. City of Berkeley Rent Board* (Alameda County Superior Court – Case # not yet assigned)

- *Nanak Foundation v. City of Berkeley Rent Board* (Alameda County Superior Court Case #RG19047960)
- *NCR Properties v. City of Berkeley Rent Board; City of Berkeley* (Alameda County Superior Court Case #RG19024268)
- *Berkeley Rental Housing Coalition v. City of Berkeley Rent Board* (Court of Appeal, 1st App. District, Case #A160652)

10. ADJOURNMENT

COMMUNICATIONS DISCLAIMER:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.



RENT STABILIZATION BOARD
Regular Meeting
Thursday, January 21, 2021
7:00 p.m.

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RENT STABILIZATION BOARD

Regular Meeting

Thursday, January 21, 2021

7:00 p.m.

Regular Meeting Minutes – *Unapproved*

1. **Roll call** – Chair Simon-Weisberg called the meeting to order at 7:06 p.m.
Aimee Mueller called roll.
Commissioner present: Alpert, Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg.
Commissioners absent: None.
Staff present: Brown, Mueller, Wu.
2. **Approval of Agenda** – M/S/C (Laverde/Alpert) MOVE THE AGENDA AS WRITTEN.
Roll call vote. YES: Alpert, Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.
3. **Public Comment** – Krista Gulbransen congratulated the newly elected and re-elected commissioners and the Chair. Julia Cato spoke in support of AB15 and AB16. Matthew Lewis spoke about item 5.a.(2). A comment submitted via email by Martha Stassinis about a development at Dwight and San Pablo was read aloud.
4. **CONSENT ITEMS**
 - a. Approval of the December 17th regular meeting minutes

M/S/C (Selawsky/Mendonca) MOVE ITEM 4.a. AS WRITTEN. Roll call vote.
YES: Alpert, Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.
5. **ACTION ITEMS**
 - a. From Board Members, Committees, and Executive Director
 - (1) Special Presentation on Housing Legislation by Brian Augusta & Associates, Rent Board Lobbyist
 - a. State Legislative Report with possibility of direction from Board regarding several state legislative bills

Mr. Augusta presented on the status of current housing-related legislation, and took questions from the Board.
 - (2) Recommendation that the Board endorse Assembly Bill (AB) 15 – Tenant Stabilization Act of 2021, and AB 16 – Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021 (Vice-Chair Alpert, Chair Simon-Weisberg & Commissioner Laverde)

M/S/C (Alpert/Laverde) ENDORSE AB15 AND SEND THE AMENDED LETTER TO ASSEMBLY MEMBERS CHIU AND WICKS, AND SENATOR SKINNER EXPRESSING THE BOARD'S POSITION. Roll call vote. YES: Alpert, Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.

6. INFORMATION, ANNOUNCEMENTS AND NEWS ARTICLES

The items below were mentioned or briefly discussed. Underlined items have additional comments.

a. Reports from Board Members/Staff

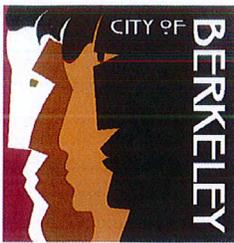
- (1) Committee Assignments List for 2021 (Chair Simon-Weisberg)
- (2) Market Medians report updated through the 3rd quarter of 2020 (Acting Executive Director)
- (3) Commissioner attendance at Board & Committee meetings through the 4th quarter of 2020 (Acting Executive Director)
- (4) Update on recent Rent Board outreach events (Acting Executive Director)
 - a. [January 13, 2021 Berkeley Rent Control 101 Webinar for Landlords and Tenants](#) – 26 participants
- (5) Rent Board Regulations, Chapter 12, Appendix B updated with U.S. Bureau of Labor Statistics CPI information (Acting Executive Director)

7. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget and Personnel
- b. Eviction/Section 8/Foreclosure
- c. Habitable & Sustainable Housing (HASH)
- d. IRA, AGA and Registration
- e. Outreach
- f. 4 x 4 Joint Committee on Housing: City Council/Rent Board
- g. Ad Hoc Committee on RSB Technology Issues

- h. Updates and Announcements regarding future Special Meetings
 - i. Discussion of items for possible placement on future agenda
8. **ADJOURNMENT** – M/S/C (Johnson/Laverde) MOTION TO ADJOURN THE MEETING.
Roll call vote. YES: Alpert, Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.

The meeting was adjourned at 8:58 p.m.



Rent Stabilization Board
Office of the Executive Director

DATE: February 18, 2021

TO: Honorable Members of the Berkeley Rent Board

FROM: Honorable Members of the Budget & Personnel Committee
By: Matt Brown, Acting Executive Director 

SUBJECT: Mid-Fiscal Year Budget Report

Recommendation

That the Board add a permanent Community Services Specialist II position to the staffing model to serve as a Housing Counselor. The Budget & Personnel Committee reviewed a Mid-Fiscal Year Budget report prepared for the committee at its meeting on January 28, 2021, and unanimously recommended that the full Board adjust the staffing model to hire an additional housing counselor to respond to increased demand within the Public Information Unit.

Background

On June 18, 2020, the Board adopted a staffing model and budget with a maximum expenditure authorization for FY 2020/21. The Board received periodic budget updates and discussed the issue at several prior Board meetings. Prior to adopting the budget the Board voted to keep the annual registration fee at \$250 per unit. The Board maintained a larger than expected uncommitted reserve balance from the previous fiscal year, caused by staff turnover and unexpected vacancies in several previously-budgeted positions. These staffing changes resulted in some delays in delivery of services and/or deferral of some new initiatives or projects. At the time the Board adopted the budget there was considerable concern regarding how the COVID-19 pandemic and accompanying Shelter in Place Orders would affect collection of Registration Fees. Short-term revenue gaps were anticipated. At staff's recommendation, the Board adopted a cautious approach when establishing the initial staffing levels and services for the current fiscal year. To that end, the Board incorporated a formal mid-year budget review as part of the process for adopting the budget for FY 2020/21. The Board reasoned that it would be able to make more informed choices regarding to what extent it is able to fill several positions and/or fund program enhancements.

The Board anticipated having an uncommitted reserve of \$130,997, or about 2.5% of its reoccurring operational budget at the conclusion of this fiscal year. This was far below the Boards targeted 8% reserve. To that end, the Budget & Personnel Committee asked staff to take a conservative approach and wait before committing to larger capital expenditures until impacts

to revenue were known. This would allow time to adjust the budget if revenues came in even lower than anticipated. The Board adopted this approach with careful consideration and determined it to be the best path forward for the agency to continue to provide a high level of service to the public. The Board determined that it was in the agency's best interest to utilize the reserve in this manner in order to prevent raising the registration fee during a time of crisis and uncertainty.

The potential impact on the reserve funds and the uncertainty surrounding revenue collection at the time the budget was adopted underscored the need for the Commissioners to incorporate a formal mid-year review for this fiscal year. The Board reasoned that it would then be able to adjust expectations and service delivery to respond to any outstanding issues should they arise over the final six months of 2020.

Fiscal Year 2020-2021 Revenue Collection

The Board authorized an expenditure level of \$6,096,209 for FY 2020/2021 which included several major one-time costs. For three years the Board has maintained an additional Capital Reserve of \$500,000. As has been discussed regularly, \$400,000 of this Capital Reserve was earmarked for upgrades and/or a more cost-effective replacement of the Board's rent tracking database (RTS).¹ The Board authorized significantly reducing its uncommitted operational fund balance for this fiscal year in order to maintain the current level of service without raising the annual registration fee.

The Board anticipated collecting 4,850,000 for the current fiscal year. As of December 31, 2020, we have collected \$4,861,780.² There are currently 158 delinquent accounts representing 601 units that have failed to pay Registration Fees.³ Our compliance efforts continue, and Registration staff has just sent out January penalty bills.⁴ The number of delinquent accounts and unregistered units is a bit higher than we normally see, but not extraordinary (particularly given the circumstances).

¹ The Board also set aside additional funds to cover expenses associated with online registration, staff training and one-time legal fees related to confidential personnel matters.

² By comparison, our agency collected \$4,942,849 as of December 31, 2019.

³ Of these units, 115 accounts totaling 414 units have failed to pay the FY 20/21 Registration Fee. Additionally, of the 601 units listed above, 79 are fraternity "summer" rentals, so they are not full fees. In total, \$97,900 in current fiscal year and \$26,500 in prior fiscal year Registration Fees remain unpaid.

⁴ The Board adopted Resolution 20-14 on July 16, 2020, which created an amnesty period to allow property owners the opportunity to pay the Board's Registration Fee for FY 2020/2021 without penalty if they did not timely pay and were financially impacted by COVID-19. The Board may consider further amnesty allowance depending on how successful we are in collecting penalties over the next several months.

Fiscal Year 2020-2021 Mid-Year Expenditures & Updated Projections

As of December 31, 2020, the Board has expended a total of \$2,503,499⁵. Actual mid-year expenditures are significantly less than what was anticipated in the Board's adopted budget. This is largely due to several areas of reduced expenditure, most significantly from salary savings due to the unfilled permanent Executive Director position and the vacant Deputy Director position. Staff now project that total FY 2020/21 expenditures will be around \$800,000 less than what the Board authorized in the adopted budget.

In addition to salary savings, staff project savings in capital expenditures related to the RTS replacement project. This is because 3Di, Inc., the vendor developing the RTS replacement platform, graciously agreed to delay and spread-out payments for the development of platform between two fiscal year. Payments for development will likely begin in FY 2021/22 and extend into FY 2022/23.

3Di has informed staff that the launch of the Measure MM registration solution will create some additional costs on their end that are separate from the larger RTS replacement project. Staff anticipated some additional costs to the agency related to Measure MM because 3Di's subscription costs are based on the number of rental units added to the system and the additional Measure MM units have increased the total amount of units the database will track. Staff is still going over the details of these costs with 3Di and will inform the Budget & Personnel Committee if this requires an amendment to 3Di's current contract with the Rent Board.

A preliminary mid-year budget update is attached to this report and provides details on actual expenditures by budget line-item. The actual year-end numbers in this update are not yet final and are pending final review by the City of Berkeley's contracted outside auditor.

Measure MM

The Board did not plan for the registration process or implementation of Measure MM when it adopted the FY 2020/21 budget in June of 2020. Indeed, the ballot initiative was not even adopted by Council and placed on the ballot until the end of July, so there was no way to plan for possible costs associated with these changes to the Rent Ordinance.

Measure MM imposes registration requirements on certain partially covered rented residential units; namely single-family homes, condominiums, and units defined as new construction under B.M.C. Sections 13.76.040Q. and 13.76.050I. While there may be certain state laws that restrict the amount of rent that landlords are able to charge these tenancies, Measure MM did not impose any local rent regulations on the units subject to registration. These units will remain exempt from Berkeley's rent control provisions, but they are now required to register, and the Rent Ordinance's good cause for eviction protections and security deposit interest provisions continue to apply to these tenancies.

⁵ These are preliminary numbers as of early January 2021. The Finance Department has not completed accounting of all December 2021 expenditures.

Measure MM additionally requires the Board to set a Registration Fee for these units much as it has for controlled units since the inception of the ordinance in 1980. After careful consideration of the issue, the Board adopted Resolution 20-23 which both identified the enhanced services that our agency would offer for partially covered units and clarified that the Board would not be charging a Registration Fee for the remainder of FY 20/21. Should the agency incur any expenses administering the recent changes to the ordinance or registering the new Measure MM units, these expenses may be folded into the FY 21/22 Measure MM Registration Fee.⁶ Thus, depending on the expenses that the Board incurs for administering these changes over the remainder of the current fiscal year, the amount of the Measure MM Registration Fee may be slightly higher for FY 21/22 than it otherwise would have been without consideration of the expenses from FY 20/21.

Current Agency Priorities

The Rent Board's adopted FY 2021 Budget strongly prioritized the Rent Board's five core services⁷ or areas of work, which are:

- Outreach
- Counseling
- Petitions & Mediations
- Registration of controlled rental units
- Policy, administrative, and legal support

In addition to this "core" work, the agency currently maintains the following priority projects and initiatives:

- Implementing Measure MM
- Adapting outreach and housing counseling to changes in state & local law related to the eviction moratorium and the ongoing COVID-19 response.
- Developing the 3Di platform to allow for Measure MM unit registration.
- Developing the 3Di platform to replace the existing Rent Tracking System (RTS) and case management system.
- Working with the Centre for Organizational Effectiveness on an executive transition assessment to help inform a successful recruitment and selection of a new permanent Executive Director.
- Providing input to the 4x4 Committee and City Council on implementation of the Fair Chance and "TOPA" Ordinance.

⁶ Board staff will endeavor to conduct a more comprehensive analysis this spring to determine what the fee should be for these partially covered units, but the current presumption is that the fee charged to Measure MM units will differ from that charged to controlled units.

⁷ More detail on the Board's core services can be found in the June 18, 2020 report recommending adoption of the FY 2020/21 Line-Item Budget and June 20, 2019 report on Rent Stabilization and Good Cause for Eviction in the 21st Century.

- Providing input to the Planning Department and HHCS Department on planned revisions to Berkeley's Demolition Ordinance and Relocation Ordinance.
- Implementing a two-phase project to recreate all Rent Board web content (including PDFs) and transfer to new website CMS and expand integration with the City's public records portal.

The following projects have been identified by Staff, with the Board and its other committees as priorities, but implementation work has not yet begun:

- Complete a new tenant survey and begin scoping a study/survey of property owners.
- Select a vendor to complete the scanning of all property files, and other agency files.

Two of the agency's current priority projects, the Measure MM implementation and the RTS and case management replacement project, are large, time-intensive projects that impact staff in all the work units. These larger, agency-wide projects are particularly resource-intensive and often take up all extra staff capacity for any other initiatives or projects beyond the provision of the agency's five core services. This is particularly true at this moment when staff is working on both the implementation of Measure MM and has begun to work on transition RTS and case management to the 3Di Platform.

The development of the 3Di platform is ongoing and should extend well into the next fiscal year, particularly for the non-registration related features such as Case Management, and the modules used for the processing of both evictions and petitions. Staff should have increased capacity to take on an additional project, such as the scanning of property files after the Measure MM implementation has been completed.

It is important to note that the initiatives/projects listed above do not impact all work units equally. For example, adapting outreach and counseling to the constant stream of changes to state and local law related to the COVID-19 response has impacted mainly the Public Information Unit and the Legal Unit. The resources a proposed initiative requires, and the agency's current workload and capacity to respond, are important factors when considering any changes to the existing staffing model.

Current Staffing Model

The agency's current staffing model has 23.55 Full time equivalent (FTE) career positions and one temporary position. The agency's senior staff attorney has filled in as the Acting Executive Director after the retirement of the previous Executive Director. The temporary position is for the provisional appointment of an Associate Planner that is set to end on June 30, 2021.

City of Berkeley Hiring Freeze

On April 22, 2020, the City of Berkeley instituted a citywide hiring freeze and asked each Department Director to suspend all hiring activities. The Hiring Freeze does allow limited exceptions when necessary for critical organizational functions, for safety and general welfare and to minimize risk exposure. While the Rent Board is not bound by this decision, it has been the Board's practice to only move forward with the hiring of critical positions during previous hiring freezes. This is also practical because most of the agency's positions are city classifications and shared with the other City of Berkeley Departments; past layoffs have caused the agency to absorb employees from other departments that have bumping rights under existing labor union agreements.

Filling Vacancies

The permanent Executive Director and the Deputy Director are the agency's only current staff vacancies.

Vacant Permanent Executive Director Position

The Rent Board has hired the Centre for Organizational Effectiveness to perform an executive transition assessment. The assessment is currently in progress and the results are anticipated soon. This assessment will identify key competencies that are important for a successful director of the agency to have and will help inform the recruitment and selection process for the position. After the assessment is completed, staff will return to the Budget & Personnel Committee to review the findings and make a recommendation to the full Board on how to proceed with the Executive Director hiring.

The Executive Director is clearly a critical position for the agency and filling it is necessary for the agency to move forward.

Vacant Deputy Director Position

The Rent Board's adopted budget proposed to maintain this position as part of the agency's staffing model but to delay filling until the after the hiring of a permanent Executive Director. The Agency has not had an active staff person in the Deputy Director role for several years. The agency has adapted to operating without a Deputy Director and is able to provide its core services without filling this position.

There is not a critical need to fill this Deputy Director position immediately.

Potential New Positions

The Budget & Personnel Committee has expressed interest in both creating a General Counsel position and adding an additional housing counselor to the staffing model.

General Counsel Position

On November 6, 2020, the staff provided the committee with an initial memo on this topic and plans to return with a more thorough memo with more detailed information on what needs to be done to create his new position.⁸ During this initial discussion, the committee did not get a chance to deliberate on a recommendation on how the existing staffing model should be adjusted if a General Counsel is added. While the exact duties of a General Counsel position still require development, the duties of this position would in many ways correspond with the current duties of the Board's senior staff attorney. The agency's senior staff attorney is currently a Staff Attorney III position.

It is also important to note that, unlike the Staff Attorney III position the Board currently has, the General Counsel position would report directly to the elected Board. Staff will seek further information regarding how incorporating a General Counsel position into the staffing model affects the other staff attorney positions (e.g. will they report to the General Counsel or Executive Director?).

Staff seeks input from this committee on the impacts of adding a General Counsel position to the overall staffing model. If the Board does create a new General Counsel position it would make some sense to eliminate the Staff Attorney III position and maintain a single lead attorney for the agency.

The agency's existing senior staff attorney has served as the Acting Executive Director since April of 2020. Once a permanent Executive Director is hired, the Board will know the status of the Staff Attorney III position and would be in a better position to decide whether eliminating it and replacing it with a General Counsel is in the agency's best interest. Staff's current recommendation is that the committee recommend the Board fill the permanent Executive Director position first before finalizing plans to hire a new General Counsel position.

If the General Counsel position were to replace the existing Staff Attorney III position, it would fill a critical and needed role for the agency. There is no existing salary level set for a General Counsel, but we estimate it would cost at least 10% more than a Staff Attorney III.⁹

⁸ The Acting Executive Director contacted HR to discuss what the Board would need to do to create and fill this position, but the analyst has yet to respond with an answer to that question.

⁹ The Santa Monica Rent Board has a General Counsel position as part of their permanent staffing model. That position is paid 2.4% less than the Executive Director. Staff recommends a similar salary differential if the Board chooses to hire a General Counsel.

Additional Housing Counselor Position

Both the committee and agency staff have expressed interest in adding to staff capacity in response to the additional workload created by the passage of Measure MM. The Public Information Unit has recently experienced increase demand for service, and the housing counselors have played a critical role in responding to community concerns regarding housing insecurity. Furthermore, adding an additional Housing Counselor to the staffing model would not only help the agency respond to Measure MM client contacts but would add needed staff capacity for an expanded enforcement effort to ensure all rented Measure MM properties are properly registered. This additional capacity could also help the agency absorb potential additional work related to the Fair Chance Ordinance, TOPA and possibly the Relocation Ordinance. All the Agency's Housing Counselors are currently in the Community Services Specialist II position.

As mentioned in the section on current agency priorities, the housing counselors in the Public Information Unit have been particularly impacted by the constant changing of laws related to the COVID-19 response. Adding additional staff capacity to this unit will also help address the needed capacity to adapt to future laws addressing responding to the pandemic. Adding an additional housing counselor will provide critical staff capacity to assist with a successful implementation of Measure MM.

Next Steps

While the agency waits for the Centre for Organizational effectiveness to complete the executive transition assessment so it can proceed with the hiring process of a permanent Executive Director the Board may wish to consider if any adjustments are needed to the current staffing model. The timing of adding any new positions, whether they happen during the remainder of the current fiscal year or sometime next fiscal year is an important consideration and will help staff and the Board determine the appropriate fee level for the FY 2022 registration fee. This is especially true since most of the positions discussed in this report are management or executive level position that have a large impact on the agency's recurring budget. For context, adding a new General Counsel positions permanent would cost the agency more than adding two additional housing counselor positions.¹⁰

Adding only those positions that are critical to providing the agency's cores services should avoid the need to increase the current registration fee above \$250 per unit and allow the agency to learn the actual number of units that are eventually registered due Measure MM. Staff will not know the actual number of units that register under MM until after the Board sets FY 2022 registration fee and adopts its annual budget.

Given that the additional Measure MM funding will not be known until next fiscal year, adding additional staff positions that rely on this funding source would require the Board to either deficit

¹⁰ The financial impact of adding a General Counsel to the staffing model would be largely mitigated by eliminating the Staff Attorney III position given that these two positions would likely have somewhat similar salaries.

spend or raise the registration for controlled rental units at a time when many property owners have experienced rent shortfalls due to the pandemic.

The Board has yet to hire any new employees during the COVID-19 pandemic. The hiring process has been complicated due to the need to rely on a remote process for the interviews, onboarding, and training of any new hires. When considered in tandem with both the citywide hiring freeze and the pandemic's overall impact to the rental housing market, staff recommends that the Board consider limiting the creation of any additional positions to those that are critical to the agency's core services, including the ongoing implementation of Measure MM, with the intent of avoiding any significant increase to the registration fee for controlled rental units for the FY 21/22 registration season.

Budget & Personnel Committee Recommendation

Having reviewed a similar report and hearing from staff, on January 28, 2021, the Budget & Personnel Committee unanimously recommended that the full Board authorize a staffing model adjustment to add a permanent Community Services II to serve as a Housing Counselor in the Public Information Unit. If the Board adopts this change, staff will immediately look to advertise for a position so as to expedite the interview process and onboarding a potential employee.

The Budget & Personnel Committee will continue to discuss the other positions discussed in this report at future meetings and bring recommendations to the Board.

Conclusion

The Deputy Director and Executive Director positions are already a part of the existing staffing model adopted by the Board in June of 2020, so the Board would simply have to follow standard HR protocols before hiring those positions. Should the Board choose to add positions, such as another Housing Counselor or a General Counsel position¹¹, it will have to adopt a new staffing model at a full Board meeting. While there are challenges associated with hiring new employees in a remote working environment, there are certainly advantages to increasing staff's capacity to respond to the myriad projects on which the Board is currently working. Staff awaits the Board's direction regarding the Budget & Personnel Committee's recommendation before taking further action.

Attachments:

1. Mid-Fiscal Year Budget Update Spreadsheet
2. Adopted Fiscal Year 2020/2021 Staffing Model
3. Proposed Staffing Model with addition of Community Services Specialist II to Public Information Unit
4. Proposed Resolution 21-01 Adjusting Staffing Model to add a Community Services Specialist II position to the Public Information Unit

¹¹ There may be additional steps to adding a General Counsel position (such as possible approval from the Personnel Board). As stated earlier, an HR representative has yet to answer that question.

Rent Stabilization Program
FUND 440
Preliminary FY 2020 Year-End & FY 2021 Mid-Year Budget Update

| Code | Description | Adopted FY 2020 | Actual Year-End FY 2020 | Adopted FY 2021 | Mid-Year FY 2021 | Projected FY 2021 |
|----------|---|--------------------|-------------------------------|--------------------|---------------------|----------------------|
| 11-01 | Monthly Employees | 2,500,000 | 2,278,607 | 2,482,000 | 1,133,745 | 2,240,000 |
| 11-03 | Hourly Employees | 200,000 | 193,425 | 0 | 0 | 0 |
| 13-01 | Overtime | 10,000 | 4,149 | 5,000 | 421 | 5,000 |
| 27-20 | Benefits | 1,650,000 | 1,546,846 | 1,620,000 | 663,914 | 1,500,000 |
| 30-12 | Stipends | 53,000 | 51,200 | 53,500 | 24,850 | 53,500 |
| 30-23 | Misc. Legal Expenses | 7,500 | 121,372 | 360,000 | 219,025 | 260,000 |
| 30-36 | Temp. Agency Employees | 1,000 | 0 | 0 | 0 | 0 |
| 30-38 | Misc. Professional Services | 352,500 | 354,175 | 410,000 | 147,837 | 410,000 |
| 30-42 | Office Equip. Mtc. Svcs. / Furniture | 13,000 | 9,901 | 13,000 | 4,775 | 13,000 |
| 30-43 | Bldg. & Structures Mtc. Svc. | 400 | 340 | 400 | 190 | 400 |
| 30-51 | Bank Credit Card Charges | 35,000 | 17,519 | 25,000 | 6,429 | 25,000 |
| 40-10 | Professional Dues & Intern Fees | 4,000 | 2,779 | 3,000 | 2,060 | 3,000 |
| 40-31 | Telephones | 4,200 | 5,246 | 5,000 | 2,484 | 5,000 |
| 40-50 | Printing and Binding | 38,000 | 32,340 | 25,000 | 16,689 | 30,000 |
| 40-62 | Meals & Lodging | 4,000 | 0 | 1,000 | 0 | 1,000 |
| 40-63 | Registration Fees/Training | 1,000 | 0 | 12,000 | 0 | 10,000 |
| 40-61/64 | Transportation & Commercial Travel | 14,000 | 802 | 5,000 | 0 | 5,000 |
| 40-70 | Advertising/public access | 45,000 | 39,454 | 30,000 | 16,818 | 30,000 |
| 40-80 | Books & Publications | 13,000 | 11,138 | 13,000 | 5,009 | 13,000 |
| 50-10 | Rental of Land / Buildings | 340,000 | 345,261 | 355,000 | 194,180 | 355,000 |
| 51-10 | Postage | 45,000 | 43,236 | 25,000 | 14,173 | 25,000 |
| 51-20 | Messenger / Delivery | 800 | 201 | 500 | 0 | 500 |
| 55-11 | Office Supplies | 13,500 | 12,778 | 15,000 | 5,568 | 15,000 |
| 55-50 | Food and Water | 3,000 | 647 | 2,000 | 352 | 1,000 |
| 70-43 | Office Equipment and Furniture | 5,000 | 418 | 5,000 | 0 | 5,000 |
| 70-44 | Computers, Printers, Software | 10,000 | 2,464 | 10,000 | 6,500 | 10,000 |
| 75-25 | PC Replacement/City Software Licences | 9,500 | 0 | 50,709 | 25,356 | 50,709 |
| 75-35 | Mail Services | 3,600 | 3,600 | 3,600 | 1,800 | 3,600 |
| 75-50 | City Vehicle / Fuel & Maint. | 1,500 | 1,500 | 1,500 | 0 | 1,500 |
| | Expenditure Subtotal** | 5,377,500 | 5,079,397 | 5,531,209 | 2,492,174 | 5,071,209 |
| | Special Projects (RTS Upgrade, online registration, training) | 182,500 | 50,020 | 565,000 | 11,325 | 200,000 |
| | Annual Capital Reserve | 400,000 | 0 | 0 | 0 | 0 |
| | Total Authorized Fund Expenditures* | 5,960,000 | 5,129,417 | 6,096,209 | 2,503,499 | 5,271,209 |
| | Total Authorized Fund Revenue* | 5,150,000 | 5,092,558 | 4,850,000 | 4,861,780 | 4,950,000 |
| | Annual Surplus/Shortfall | (810,000) | (36,859) | (1,246,209) | 2,358,281 | (321,209) |
| | Previous FY Carryover Expenditures | | 51,190 | | | |
| | FUND BALANCE (cash basis) | 814,196 | 1,536,147 | 289,938 | 2,648,219 | 1,214,938 |
| | FUND BALANCE (accrual basis) | 814,196 | 1,536,147 | 289,938 | 2,648,219 | 1,214,938 |
| | TOTAL UNCOMMITTED OPERATIONAL FUND BALANCE | 714,196 | 1,036,147 | 254,938 | 2,613,219 | 779,938 |

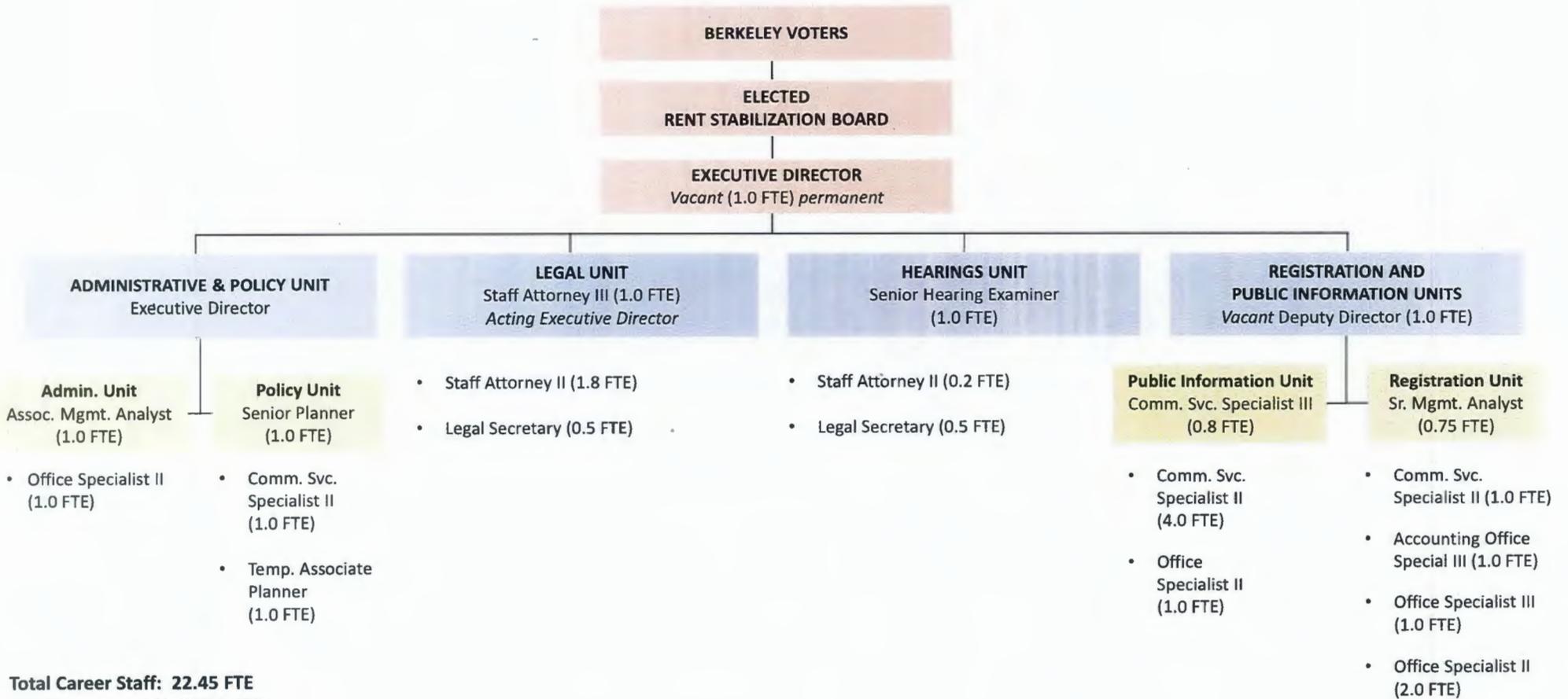
* Note: this report only reflects charges & revenues against the Rent Board Fund (Fund 440) and does not include services charged to or received from other funds

** Note: variance in actual expenditures and total fund balance reflects remaining balance in reimbursement offset escrow

Current Berkeley Rent Stabilization Program FY 2020/21 Organization Chart

Current Career and Temporary Positions FY 2020/21

Sorted by Division Supervision



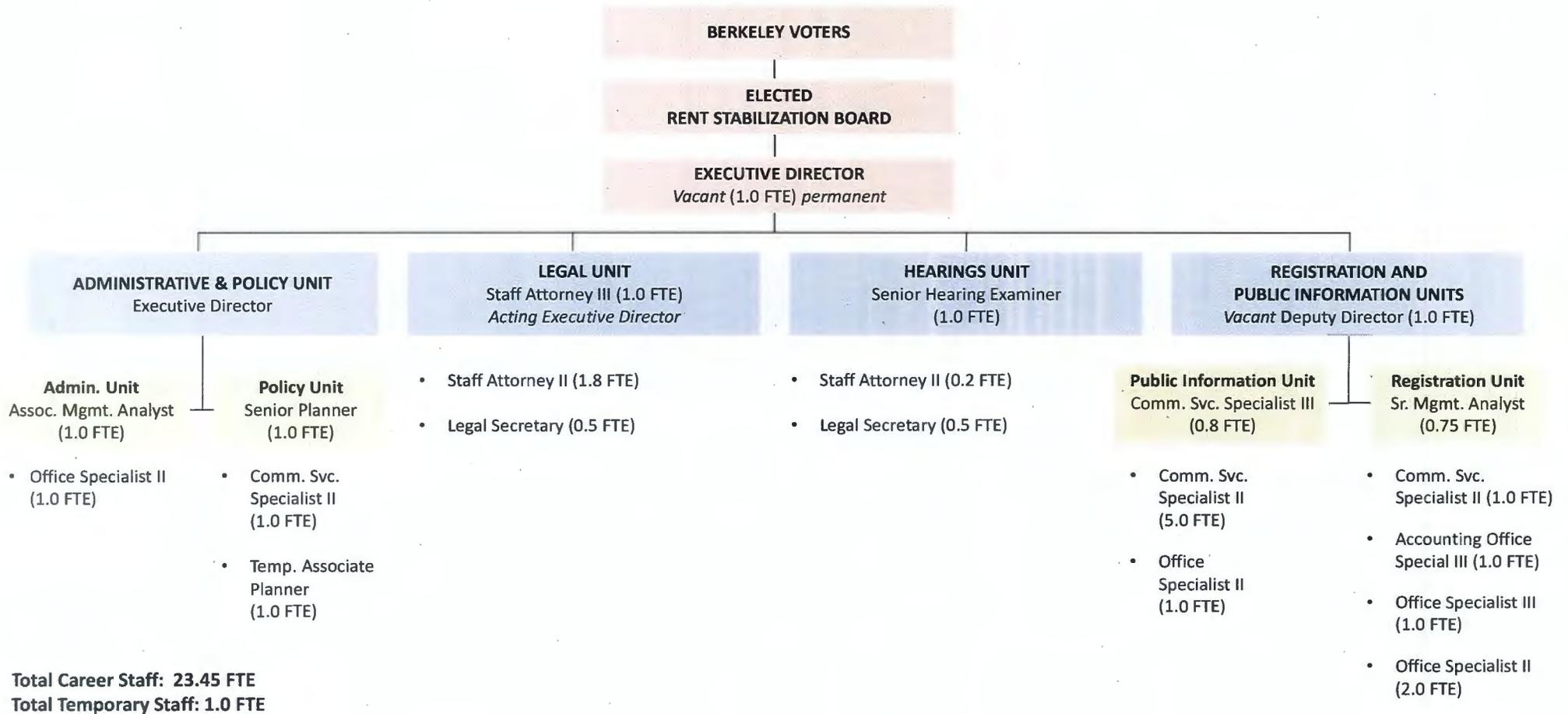
Total Career Staff: 22.45 FTE
Total Temporary Staff: 1.0 FTE

Proposed Berkeley Rent Stabilization Program 2020/21 Organization Chart*

Proposed Career and Temporary Positions FY 2020/21

Sorted by Division Supervision

*Recommended by the Rent Stabilization Board's Budget & Personnel Committee



RESOLUTION 21-01

ADJUSTING THE FISCAL YEAR 2020-2021 STAFFING MODEL POSITION DETAIL TO INCLUDE AN ADDITIONAL PERMANENT COMMUNITY SERVICES SPECIALIST II POSITION TO SERVE AS A HOUSING COUNSELOR IN THE PUBLIC INFORMATION UNIT

BE IT RESOLVED by the Rent Stabilization Board of the City of Berkeley as follows:

WHEREAS, the Rent Stabilization Board operates on the basis of a fiscal year and each year adopts an operational budget after public review and input; and

WHEREAS, Section 123 of Article XVII of the Charter of the City of Berkeley provides that the Rent Stabilization Board shall finance its reasonable expenses by charging landlords annual registration fees in amounts deemed reasonable by the Board; and

WHEREAS, prior to adopting the budget and staffing model, the Budget & Personnel Committee met several times to monitor the budget and the Program's progress meeting the goals established by the Board; and

WHEREAS, on April 30, 2020, after reviewing the available reserves and considering the economic stress caused by the global COVID-19 pandemic, the Board voted to maintain the annual registration fee at \$250 per unit; and,

WHEREAS, on May 13, 2020, June 5, 2020, and June 11, 2020, the Budget & Personnel Committee and the Acting Executive Director met and discussed a line-item operating budget and staffing model for FY 2021 for the Board's review and consideration; and,

WHEREAS, on June 18, 2020, the Board adopted Resolution 20-07 adopting the Fiscal Year 2020-2021 authorizing the staffing model position detail and maximum expenditure level; and

WHEREAS, the operating budget (including contracts) for FY 2020-2021 authorized new expenditures totaling \$6,096,209, which includes both recurring operational and capital needs; and

WHEREAS, the Board has realized some savings in its overall operating budget for the current fiscal year given that several positions remain unfilled; and

RESOLUTION 21-01

ADJUSTING THE FISCAL YEAR 2020-2021 STAFFING MODEL POSITION DETAIL TO INCLUDE AN ADDITIONAL PERMANENT COMMUNITY SERVICES SPECIALIST II POSITION TO SERVE AS A HOUSING COUNSELOR IN THE PUBLIC INFORMATION UNIT
(Page 2)

WHEREAS, in light of the unprecedented economic circumstances caused by the global COVID-19 pandemic and the related potential for a shortfall in registration fee revenue, the Board incorporated a formal, mid-fiscal year review to the budget process to assess revenues, reserves, and the need for staffing model and/or programmatic changes; and,

WHEREAS, after performing the mid-fiscal year budget review and examining the current workload and filled positions along with the goals and objectives for FY 2020-2021 articulated by the Board, the Acting Executive Director, and the Budget & Personnel Committee, the Board believes that it is necessary to add an additional permanent Community Services Specialist Position II to serve as a Housing Counselor in the Board's Public Information Unit;

NOW, THEREFORE, BE IT RESOLVED that the Board directs staff to add an additional permanent Community Services Specialist Position II to serve as a Housing Counselor in the Board's Public Information Unit (there would then be a total of five Housing Counselors); and

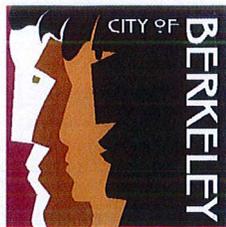
BE IT FURTHER RESOLVED THAT the addition of this position will not cause the Board to exceed the overall spending level totaling \$6,096,209 (\$5,631,209 in recurring operational and special projects, and \$465,000 in funding from the capital reserve and \$400,000 of which was authorized previously) for the Fiscal Year 2020-2021.

Dated: February 18, 2021

Adopted by the Rent Stabilization Board of the City of Berkeley by the following vote:

Leah Simon-Weisberg, Chairperson
Rent Stabilization Board

Attest: _____
Matt Brown, Acting Executive Director



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: February 18, 2021
TO: Honorable Members of the Rent Stabilization Board
FROM: Matt Brown, Acting Executive Director
BY: Allison Pretto, Senior Management Analyst
SUBJECT: Request for waiver of late registration penalties

Recommendation:

That the Board approve the attached recommendations.

Background and Need For Rent Stabilization Board Action:

The Board's penalty waiver process is governed by Regulations 883, 884 and 885. Regulation 883 lists the grounds for administrative waivers. In accordance with Regulation 884, the Executive Director reviews waiver requests that do not meet the criteria for an administrative waiver. Regulation 884 lists 12 categories, which will require a review of the totality of the circumstances by the full Board prior to granting any waiver request. Waivers that require a review of the totality of the circumstances are listed below as "Discretionary Waiver." If none of the 12 listed categories apply to the property, the waiver shall be granted/denied in a ministerial manner, based upon the formula outlined in Regulation 884(C). The Board may only alter these ministerial waivers if staff has incorrectly applied the criteria listed in Regulation 884 (B)(1-12).

Ministerial Waivers

In accordance with Regulation 884, the Executive Director reviews waiver requests that do not meet the criteria enumerated in Regulation 883. The following waiver request will be decided ministerially, unless the Board has reason to believe the underlying basis of the recommended assessment is inappropriate.

| Waiver | Property Address | Owner | Penalty Assessed | Penalty Waived | Penalty Imposed |
|--------------|-----------------------------|---------------------------|------------------|----------------|-----------------|
| 4931 | 1520 Woolsey Street | Yong Huang | \$542 | \$434 | \$108 |
| 4935 | 2317 Le Conte Avenue | Berkowitz Revocable Trust | \$1,323 | \$1,323 | \$0 |
| 4936 | 1327 Haskell Street | John Sylvester | \$1,000 | \$800 | \$200 |
| 4938 | 1412 Kains Avenue | Hewen Guo | \$1,000 | \$800 | \$200 |
| 4939 | 2411 6 th Street | L & N Ents LLC | \$500 | \$500 | \$0 |
| TOTAL | | | \$4,365 | \$3,857 | \$508 |

Financial Impact: Ministerial Waivers

Approval of Acting Executive Director's recommendations will decrease the Board's current accounts receivable by **\$3,857**.

Discretionary Waivers

For the waiver requests listed below, staff recommendations are attached and presented to the full Board for its approval. With respect to these cases, the determination of good cause to waive some or all of the penalties depends on the totality of the circumstances.

| Waiver | Property Address | Owner | Penalty Assessed | Penalty Waived | Penalty Imposed |
|--------------|-----------------------------|------------------------------|------------------|----------------|-----------------|
| 4933 | 1819 9 th Street | Merritt Oliver | \$1,000 | \$1,000 | \$0 |
| 4937 | 1232 Ashby Avenue | Samuel Williams Sr. Trust | \$210 | \$210 | \$0 |
| | | | | | |
| TOTAL | | | \$1,210 | \$1,210 | \$0 |

Financial Impact: Discretionary Waivers

Approval of Acting Executive Director's recommendations will decrease the Board's current accounts receivable by **\$1,210**.

Name and Telephone Number of Contact Person:

Matt Brown, Acting Executive Director
Rent Stabilization Board
2125 Milvia Street, Berkeley, CA 94704
(510) 981-7368

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

| | | |
|---|--|--|
| Waiver No: 4933 | Property address: 1819 9TH ST | Transferred: 03/11/2013 |
| # of Units: 4 | Exempt units (as of February 2021): 0 | |
| Owner(s): MERRITT OLIVER | | Waiver filed by: Merritt Oliver |
| Other Berkeley rental property owned: None | | |

Late payment/penalty history: The property comprises four units, all of which are rented and subject to the registration requirement. The owner paid the registration fee on October 8, 2020 -- eight days after the expiration of the amnesty period for late registration due to COVID-19. The owner's payment history is very solid, with the late payment of the 2020/2021 fee marking the second late payment in the last five years.

| Registration Date or Year | Units requiring registration at that time | Registration fees paid | Date fees paid | Penalties charged | Penalties forgiven | Penalties Paid |
|---|---|------------------------|----------------|-------------------|--------------------|------------------|
| 2017/2018 | ALL | \$1080.00 | 08/30/2017 | 1080.00 | 0.00 | 1080.00 |
| Totals (penalties previously assessed) | | | | \$1080.00 | \$0.00 | \$1080.00 |

Penalties Currently Under Consideration

Reason for Penalties: Late Payment of 2020/2021 Annual Registration Fee

| Registration Date or Year | Unit(s) registered late at this time | Registration fees paid | Date fees paid | Penalties charged | Penalties forgiven | Penalties Due |
|---------------------------|--------------------------------------|------------------------|----------------|-------------------|--------------------|------------------|
| 2020/2021 | 4 | \$1000.00 | 10/08/2020 | \$1000.00 | \$0.00 | \$1000.00 |
| Totals | | | | \$1000.00 | \$0.00 | \$1000.00 |

Grounds under Regulation 884(B): (11) The Executive Director, or his or her designee, recommends that the interests of justice require that a greater or lesser amount be waived.

Good cause claimed by owner: The owner states that "the past year has been especially difficult due to Covid-19." The owner, who is also a realtor, stated that "my sales industry was turned upside down and, as a result, my work & rental income were a huge unknown. As it turned out, I receive no sales income the 2nd half of the year." The owner goes on to say that they "left the Bay Area due to soaring cases" in California and therefore "missed any late notification from your office." The owner says that the future registration fees will be paid timely, and the current fees are paid.

Recommendation: Staff recommends that the penalty be waived in full.

Staff Analysis: Staff empathizes with the challenges faced in the rental industry as a result of Covid-19. The owner explains why the payment was not turned in within the 90-day amnesty period, and states that future payments will be made in a timely manner. These facts, in combination with the owner's good payment history, compel staff to recommend a full waiver of the penalties.

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RECEIVED

CITY OF BERKELEY
RENT STABILIZATION PROGRAM
2125 Milvia Street, Berkeley, CA 94704
PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://www.cityofberkeley.info/rent/>

JAN 21 2021

Initial:
Berkeley Rent Board

W-4933

Request for Waiver of Late Registration Penalties
Please Read Important Information on Page 2

Property Address: 1819 9th st

Owner: merritt oliver

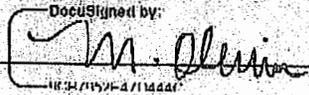
Date of acquisition, if new owner: _____

Name & relationship of person filing request, if not owner: _____

If, after reading the information on Page 2, you believe that you are entitled to a waiver of some or all of your late registration penalties, use the space below to explain why. Attach evidence, where possible, to document an extenuating circumstance that prevented timely payment, such as hospitalization or death in the family. It is your responsibility to convince the Board that your waiver should be granted, so state all facts and circumstances that support your case. Please print or type clearly. Attach an additional sheet of paper if needed.

This past year has been especially difficult due to covid-19. My sales industry was turned upside down and, as a result, my work & rental income were a huge unknown. As it turned out, I received no sales income the 2nd half of the year. Additionally, I left the Bay Area in May due to soaring cases in our state (I remain out of state today) and missed any late notice communication from your office. The registration is current now and I plan to pay 2021 on time. Please waive my late penalties this once under these extenuating circumstances. Thank you for your consideration in this matter.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Date: 1/21/2021 | 10:31:50 AM PST Signature: 
DocuSigned by: Merritt Oliver 18:34:15/21-2/11/2021

The information entered below must be clearly printed or typed in order to receive the Executive Director's recommendation to the Rent Board on your penalty waiver request one week prior to the Board's consideration of your request at its monthly meeting. The recommendation will also include the date, time and location of the meeting should you choose to attend and address the Commissioners.

Email Address: merritt@redoakrealty.com

Mailing Address: 2697 NE Wilcox Ave, Terrebonne, OR 97760

Phone Number: 510-507-1470 Fax Number: _____

Please see Communications Disclaimer on Page 2 that applies to any personal information you provide.

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

| | | |
|---|---|---|
| Waiver No: 4937 | Property address: 1232 ASHBY AVE | Transferred: 06/09/1994 |
| # of Units: 8 | Exempt units (as of February 2021): Unit #A - Owner Occupied Unit #B - Section 8 Verified Unit #C - Section 8 Verified | |
| Owner(s): SAMUEL WILLIAMS SR. TRUST | | Waiver filed by: Phyllis Yvonne Williams |
| Other Berkeley rental property owned: None | | |

Late payment/penalty history: The property, which comprises eight units, was owned since 1994 by the late Samuel Williams. In May 2020, the owner was billed \$750 for three rental units; the fee was paid timely on June 10, 2020. On December 29, 2020, the owner's daughter filed a Vacancy Registration form, indicating that a fourth unit #D, which had been formerly been claimed exempt as Vacant/Unavailable, had been rented out as of September 1st, 2020. Because more than 60 days had gone by since the tenancy start date, a penalty was assessed on the pro-rated fee due for registration of Unit #D. The owner's daughter paid the pro-rated fee and filed a waiver request of the penalty.

| Registration Date or Year | Units requiring registration at that time | Registration fees paid | Date fees paid | Penalties charged | Penalties forgiven | Penalties Paid |
|---|---|------------------------|----------------|-------------------|--------------------|-----------------|
| 2018/2019 | ALL | \$460.00 | 02/25/2019 | 210.00 | 0.00 | 210.00 |
| Totals (penalties previously assessed) | | | | \$210.00 | \$0.00 | \$210.00 |

Penalties Currently Under Consideration

Reason for Penalties: Late Payment of 2020/2021 Pro-rated Registration Fee - 1 unit

| Registration Date or Year | Unit(s) registered late at this time | Registration fees paid | Date fees paid | Penalties charged | Penalties forgiven | Penalties Due |
|---------------------------|--------------------------------------|------------------------|----------------|-------------------|--------------------|-----------------|
| 2020/2021 | 1 | \$210.00 | 12/29/2020 | \$210.00 | \$0.00 | \$210.00 |
| Totals | | | | \$210.00 | \$0.00 | \$210.00 |

Grounds under Regulation 884(B): (1) The good cause asserted in the waiver request is a death or illness in the landlord's family.

Good cause claimed by owner: The waiver request has been filed by Phyllis Williams, the daughter of the Samuel Williams, who died on September 2, 2020. Ms. Williams states that Unit #D had been vacant and undergoing "massive renovations" since December 19, 2019. She states that it was rented on September 1, 2020, and then her father passed away the next day, "leaving me as the trustee of his affairs." She says that she was "unable to administer much of the paperwork and ongoing accounting for several months while handling his transition." She asks that the penalty be waived.

Recommendation: Staff recommends waiving the penalty in full.

Staff Analysis: The owner has provided a death certificate, which proves that Mr. Williams died the day after this unit was rented. It is understandable that Ms. Williams as trustee may not have been able to deal with her father's passing and the handling of his affairs in time to register this unit. She did, however, file the necessary paperwork and pay the fees within four months. Staff doesn't anticipate future late payments, and recommends a full waiver.

RECEIVED

CITY OF BERKELEY
RENT STABILIZATION PROGRAM
2125 Milvia Street, Berkeley, CA 94704
PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://www.cityofberkeley.info/rent/>

FEB 02 2021

Initial: [Signature]
Berkeley Rent Board

W-4937

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 1232 D Ashby Avenue

Owner: Phyllis Yvonne Williams, TTE

Date of acquisition, if new owner: _____

Name & relationship of person filing request, if not owner: _____

If, after reading the information on Page 2, you believe that you are entitled to a waiver of some or all of your late registration penalties, use the space below to explain why. Attach evidence, where possible, to document an extenuating circumstance that prevented timely payment, such as hospitalization or death in the family. It is your responsibility to convince the Board that your waiver should be granted, so state all facts and circumstances that support your case. Please print or type clearly. Attach an additional sheet of paper if needed.

1232 D Ashby Ave was vacant from 12/31/2019 until September 1, 2020 for massive renovations. On Sept 2, 2020 my father passed away leaving me as the Trustee of his affairs. I was unable to administer much of the paperwork and ongoing accounting for several months while handling his transition. Please waive the 100% late fee for unit 1234 D. Attached is the death certificate. Thank you

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Date: 1/26/2021 Signature: [Signature]

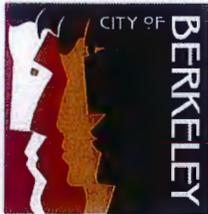
The information entered below must be clearly printed or typed in order to receive the Executive Director's recommendation to the Rent Board on your penalty waiver request one week prior to the Board's consideration of your request at its monthly meeting. The recommendation will also include the date, time and location of the meeting should you choose to attend and address the Commissioners.

Email Address: phyllis.yvonne@comcast.net

Mailing Address: 2342 Hillcrest Drive, West Hills, CA 91307

Phone Number: 916-425-0303 Fax Number: N/A

Please see Confidentiality Declaration on Page 2 that applies to any personal information you provide.



Rent Stabilization Board
Office of the Executive Director

RENT STABILIZATION BOARD

DATE: February 18, 2021
TO: Honorable Members of the Rent Stabilization Board
FROM: Matt Brown, Acting Executive Director 
BY: Allison Pretto, Senior Management Analyst
RE: Penalty Billing Summary as of February 9, 2021

Summary

As of February 9, 2021, the Registration Unit's accounts receivable indicated that a total of 154 property accounts have outstanding fee and/or penalty balances and therefore remain out of compliance with the Rent Ordinance's registration requirements. These 154 properties comprise 636 units.

Background

Under BMC 13.76.080, Berkeley property owners are required to pay registration fees for units subject to the registration requirement by July 1 of each year. Late payment results in the assessment of a 100% penalty on any outstanding fee; the penalty is assessed every six months that the fee remains unpaid.

FY 2020/2021

For the current fiscal year, registration fees were due Wednesday, July 1, 2020, and January 1, 2021, penalties were assessed on accounts with outstanding registration fees. Board staff sent a penalty billing in July of 2020, and many accounts were resolved through the Board's amnesty program established by Resolution 20-14 which allowed staff to waive penalties when landlords had COVID-19 related financial distress. Nevertheless, some accounts remained delinquent. On January 21, 2021, Registration staff sent penalty billing statements to the owners of 180 properties with outstanding registration fees and/or penalties on their properties' accounts.

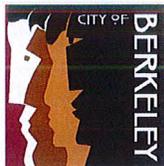
As of February 9, 26 accounts had been resolved. Owners of all but 154 properties had registered their properties comprising 636 rent-controlled units. Of these 154 properties with outstanding balances, 110 represented properties with outstanding 2020/2021 registration fees (497 units).

The remaining 44 property accounts have only penalty and/or prior years' registration fee balances (139 units). Of these, 11 are pending resolution, as the owners have filed a Request for Waiver of Late Registration Penalties.

The following table summarizes the current outstanding accounts receivable amounts:

| | |
|-----------------|------------------|
| 2020/21 Fees | \$92,700 |
| Prior Year Fees | \$26,000 |
| Penalties | \$663,600 |
| TOTAL | \$782,300 |

Attachment

**Rent Stabilization Board**

January 22, 2021

Dear Rental Property Owner:

Our records indicate that you owe outstanding fees and/or penalties for residential units covered by the Berkeley Rent Ordinance. The 2020/2021 registration fee of \$250 for each of these units was due by July 1, 2020. Any fees or penalties incurred prior to the 2020/2021 registration period also appear on this billing statement. Registration fees for all units rented and registered after July 1 for the 2020/2021 fiscal year are pro-rated at \$21/month.

The Berkeley Rent Stabilization Ordinance requires that payments not made or postmarked by July 1 are subject to a 100% penalty. An additional 100% penalty is assessed every six months the fee remains unpaid. Penalties were assessed on all fees which were due and unpaid on July 2, 2020, and on January 1, 2021.

All outstanding fees and penalties included on this statement must be paid, cleared, or waived in order for the property to be in compliance with the registration requirements of the Ordinance.

It is illegal to increase rents or to evict tenants from unregistered properties.

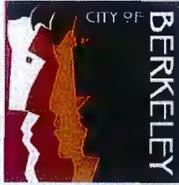
If you believe there was good cause for not paying the fees on time, you may submit a Request for Waiver of Late Registration Penalties. This form can be obtained from our website, or sent to you via email or U.S. mail upon request. **Please be advised that all outstanding current and previous years' fees must be paid in full before a waiver of the penalties can be considered.**

No payment is necessary for units which are exempt from the registration requirements as outlined in the Rent Stabilization Ordinance (B.M.C. Section 13.76.050). If you wish to claim an exemption at this time, please complete the enclosed Unit Status Form by crossing out the information you believe is incorrect and printing the correct information. If you are claiming a unit exempt under the Section 8 Housing Choice Voucher program, you must provide a copy of the Section 8 contract or any other form of proof.

A pre-addressed envelope is provided for your convenience. If you have already paid this bill, or believe that this statement is incorrect, please contact our Registration Unit at: **(510) 981-7368 Ext. 2**, or at rent@cityofberkeley.info. Please note that our office remains closed due to the ongoing Shelter in Place order. You may reach Registration Unit staff by telephone during our regular office hours: Monday, Tuesday, Thursday, and Friday, 9:00 a.m. to 4:45 p.m.; and Wednesday, noon to 5 p.m.

Sincerely,

Allison Pretto
Senior Management Analyst



Rent Stabilization Board
Office of the Executive Director

RENT STABILIZATION BOARD

DATE: February 18, 2021

TO: Honorable Members of the Rent Stabilization Board

FROM: Matt Brown, Acting Executive Director *MB*

BY: Allison Pretto, Senior Management Analyst

RE: Registration of Rental Units Subject to Measure MM

Summary

The Berkeley Rent Board has begun its initial effort to register rental units partially covered by the Berkeley Rent Ordinance, as required by Measure MM. The agency is now in the course of appraising the owners of approximately 1,675 properties of the new registration requirement, as well as collecting tenancy and exemption information. These properties comprise approximately 5,000 residential units.

Background

On November 3, 2020, the Berkeley voters passed Measure MM, which amended the Berkeley Rent Ordinance to require property owners to register residential units that are partially covered by the Ordinance. The units subject to the new registration requirement are:

- Rented single-family homes;
- Rented condominiums;
- Rental units that received a certificate of occupancy issued after June 30, 1980.

Using available county and city records, Rent Board staff identified the properties and residential units that could potentially be subject to the new requirement. An initial assessment revealed that approximately 7,000 residential properties units could potentially be subject to the new registration requirement.

As the registration of this number of properties presented a staff capacity problem, Rent Board staff decided to approach the registration effort in two waves:

- 1) Require affirmative registration or claim of exemption of the 1,675 residential properties in multifamily buildings with certificates of occupancy issued after June 30, 1980, and in single-family homes and condominiums that have certified that the units are rented as required by the Rental Housing Safety Program (RHSP). Owners of these properties will be required to use the Rent Board's online registry to register their properties' tenancies and/or claim units exempt. These owners will be billed for registration fees in the future if units on their properties are not claimed exempt. This mailing is scheduled for February 12, 2021.
- 2) Send an informational mailing to the owners of the remaining 4,300 properties (primarily single-family homes) that have not filed with the RHSP, and which are less likely to be used as rental units. Owners of these properties will be apprised of Measure MM's requirements and directed to register their units with the Rent Board if rented. This mailing is slated to go out to property owners by mid-March 2021.

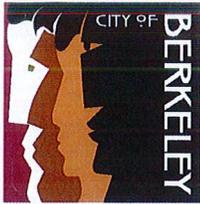
As stated earlier, the agency has sent out a mailing to the owners of the first group identified above. These owners have received a letter that informs them of the measure's passage and of the new requirements. These owners must either 1) register all units on the property identified in the letter using the Rent Board's new online registration registry; or 2) claim any units exempt as allowed under the Berkeley Rent Ordinance.

The mailing also included a fact sheet describing Measure MM and the registration requirements and a user guide to register the units online. While owners are strongly encouraged to use the online registry, they also can contact Rent Board staff for assistance with registering their properties offline. Owners have been informed that they must register their properties or claim them exempt by March 15, 2021.

Conclusion

We have attached all materials that went out in the February 12 mailing and all links to our informational materials regarding Measure MM on our website. Staff will keep the Board apprised of our efforts to register these units in the coming months.

Attachments



Rent Stabilization Board

February 2021

[OWNER NAME]
 [OWNER ADDRESS]
 [OWNER ADDRESS]

ACTION REQUIRED

PROPERTY ADDRESS: 1234 Main Street
ASSESSOR PARCEL NUMBER: 0123456789
PIN: 012345

Dear [OWNER NAME]:

I am writing to inform you about a new law that affects the above-referenced property. On November 3, 2020, Berkeley voters passed Measure MM. This measure amended the Berkeley law to require property owners to register certain residential rental units. These Measure MM units include:

- Rented single-family homes;
- Rented condominiums;
- Rental units that received a certificate of occupancy issued after June 30, 1980.

Our records show that you own at least one dwelling unit at the above address, which is subject to the new registration requirement when rented. There may be a limited exception to certain registration requirements for shorter terms, but this exception is very limited. Please refer to the enclosed fact sheet or contact our office for further information regarding this exemption.

You must either register the unit(s) at the above-referenced property, **OR** claim the unit(s) exempt from registration requirements **no later than March 15, 2021**. Failure to register in a timely manner will result in future penalties. The Board has elected not to charge a registration fee for the current fiscal year (ending June 30, 2021), but will charge a fee for all qualifying Measure MM units next fiscal year.

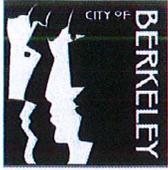
To register or to claim your unit(s) exempt from the registration requirement, you must go to the Berkeley Rent Board's website at www.cityofberkeley.info/rent and click on the "Register Online" button. Additional Measure MM information and registration instructions are enclosed. If you do not have access to a computer, please call (510) 981-7368, Ext. 2, to speak to a Registration Unit staff member.

We realize this change may be confusing, and we are happy to discuss the new Measure MM registration requirements with you. Please contact us at (510) 981-7368, Ext. 2, or at rent@cityofberkeley.info. While our office remains closed to in-person visits due to the COVID-19 pandemic, our staff is available Mondays, Tuesdays, Thursdays and Fridays from 9:00 a.m.-4:45 p.m., and on Wednesdays from noon-5 p.m. to answer your questions by phone or email.

Sincerely,

A handwritten signature in blue ink that reads "Matt Brown".

Matt Brown
 Acting Executive Director



Rent Stabilization Board

MEASURE MM REGISTRATION INFORMATION

How did Measure MM change rental unit registration requirements in Berkeley?

Measure MM changed the Rent Ordinance to require owners to register most rental units that are not fully covered by the Rent Ordinance. However, there are exemptions to the Measure MM registration requirements, so not all rental units must be registered.

Which units are exempt from the Measure MM registration requirements?

- Single-family homes or condominiums IF they are only rented for up to two years AND you: (1) own no more than one residential unit in Berkeley; (2) lived in the unit as your primary residence for at least 365 consecutive days immediately prior to rental; (3) will reoccupy the unit as your primary residence when the rental ends; and (4) specify the rental term, not to exceed 24 months, in the lease.
- Units with Section 8 or Shelter Plus tenancies
- Units that are owner occupied, maintained for owner's use only, or occupied rent free.

*If you believe your unit is exempt from Measure MM registration you must still claim the exemption!

How do I register or claim an exemption?

By using our online registration portal. Please see the instructions on the reverse side of this sheet. If you do not have internet access, please contact us at (510) 981-7368 Ext. 2.

Does registering my unit mean the Rent Board will control how much rent I can charge?

No. Measure MM units are still exempt from rent regulation under Berkeley's Rent Ordinance. Registration means that owners must report unit and tenancy information and pay a registration fee once a year. Property owners and tenants in Measure MM units can also access enhanced Rent Board services like more comprehensive housing counseling and mediation services to help resolve some landlord-tenant disputes.

What is the registration deadline, and how much will I have to pay?

You must register or claim exemptions by March 15. There is no fee for the current fiscal year, so you will not have to pay anything right now. There will be a fee for the 2021-2022 fiscal year. You will receive a bill in May and the fee will be due on July 1, 2021. The Rent Board has not yet set the fee.

What will happen if I don't register my unit?

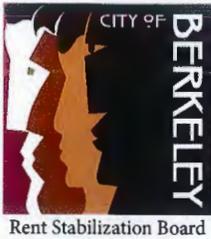
In the future, failure to pay registration fees will result in monetary penalties. Failure to properly register a Measure MM unit may also be used by a tenant as a defense to an unlawful detainer (eviction lawsuit).

HAVE ADDITIONAL QUESTIONS? Join us for a Measure MM Webinar

To register go to www.cityofberkeley.info/rent and click on the "Landlord and Tenant Workshops & Seminars" link under Popular Topics on the left, or call (510) 981-7368 (RENT).

April 14, 2021
10:00 am – 11:30 am
Online Event via Zoom

Berkeley voters passed Measure MM in the November 2020 election. Join us for an overview of how this measure impacts registration, rights, and responsibilities for both landlords and tenants. Presentation followed by Q & A with experienced Rent Board housing counselors & registration staff.



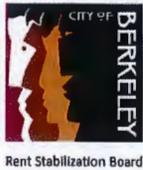
Quick Guide to Register Online

For a comprehensive **Landlord User Guide**, please visit: www.cityofberkeley.info/rentregistryguide.pdf or scan:



Step 1)

Register a new account by going to: rentregistry.cityofberkeley.info, scan the QR code or go to www.cityofberkeley.info/rent and click on "Register Online."



ACTION REQUIRED

PROPERTY ADDRESS: [PROPERTY ADDRESS]
ASSESSOR PARCEL NUMBER: [APN]
PIN: [6 DIGIT PIN]

February 2021

[OWNER NAME]
[OWNER ADDRESS]

Step 2)

Add your properties to your profile by using your APN and pin on the upper right hand corner of the first letter.

Step 3)

Update your contact info and confirm who will be the primary contact and receive correspondence from the Rent Board:

Addresses **Contacts** Geo View

Each Property requires a Primary Owner Contact and a Property Manager Contact to be added. If you see a Primary Owner Contact added below, please use the blue action menu to Edit the information to ensure its accuracy. To add a Property Manager Contact, click on "Add Contact", select "Property Manager" and enter the data. If there is NOT a specified Property Manager for the Property, you can click on "same as Owner" to prefill the information. Once you have added these contacts, please indicate which Contact should receive Mailed Notices and which Contact(s), in addition to the Property's Registrant, should receive system generated emails. The option to indicate this will appear once both Contact Type have been added. You can also add additional Owner names, if applicable. This is optional and purely informative.

Which Contact Type should receive mailed notices and billing statements?
Primary Owner

+ ADD CONTACT

Primary Owner

| Unit Status Code | Unit Regulation Type | Number of Bedrooms | Initial Rent | Current Rent | Start Date of Tenancy | Date of Last Rent Increase | Occupant Type |
|------------------|----------------------|--------------------|--------------|--------------|-----------------------|----------------------------|---------------|
| NEW | Partially Covered | - | - | - | - | - | - |

301 Systems. All Rights Reserved.

| Unit Status Code | Unit Regulation Type | Number of Bedrooms | Initial Rent | Current Rent | Start Date of Tenancy | Date of Last Rent Increase | Occupant Type |
|------------------|----------------------|--------------------|--------------|--------------|-----------------------|----------------------------|---------------|
| NEW | Partially Covered | - | - | - | - | - | - |

Step 4)

The first step is to **edit** each unit and add the occupant type. If the unit is tenant occupied, provide tenancy details.

Step 5)

If the unit qualifies for an exemption you must then submit an exemption request.

Step 6)

Review and Submit!



| Total Units | Property Status | Primary Owner | Property Manager |
|-------------|-------------------|---------------|------------------|
| 1 | Registration Open | Test User | Test User |

[Click Here to Complete Registration](#)

Need help? Call the Registration Unit at (510) 981-7368, Ext. 2, or email the Registration Unit at rentregistry@cityofberkeley.info. You can also refer to the landlord user guide (link at top of page).



BERKELEY RENT BOARD

COVID-19 Fact Sheet Resources for Berkeley Tenants & Landlords

Updated February 9, 2021

This document will be updated on a regular basis to reflect the most current information available.

Disclaimer: The Berkeley Rent Board has prepared this fact sheet to help the Berkeley community understand the application of Berkeley's COVID-19 Emergency Response Ordinance (B.M.C. 13.110), the statewide COVID-19 Tenant Relief Act, and other provisions of Assembly Bill 3088 and Senate Bill 91. This information is solely advisory and does not constitute legal advice. If you have questions about your particular situation, you can contact a Rent Board housing counselor, but they will not provide legal advice. The Rent Board has no jurisdiction to decide issues of possession in the event of an unlawful detainer (eviction lawsuit). Those issues will ultimately be decided in court.

COVID-19 STATE OF EMERGENCY

Due to the COVID-19 pandemic, the City of Berkeley declared a local State of Emergency on March 3, 2020 and the City has been under various [Berkeley Health Officer Orders](#) since March 16, 2020. The entire Bay Area, including the City of Berkeley, was under a regional [Stay Home Order](#) from December 3, 2020 to January 24, 2021. The City of Berkeley is currently under a local [COVID-19 Risk Reduction Order](#).

LOCAL RESTRICTIONS ON EVICTIONS

Berkeley COVID-19 Emergency Response Ordinance (B.M.C. 13.110)

The Berkeley COVID-19 Emergency Response Ordinance prohibits all evictions other than those pursuant to the Ellis Act and necessary for the health and safety of residents. Actual or suspected COVID-19 illness or exposure cannot serve as the basis for eviction (B.M.C. 13.110.020).

During the local state of emergency, tenants who are unable to pay timely rent for a "covered" reason are protected from eviction. Tenants will still owe this rent to the landlord, but it cannot serve as the basis for an eviction (B.M.C. 13.110.040A, 13.110.050B, 13.76.130A.1.).

Covered reasons include (B.M.C. 13.110.030A):

- Material decrease in household income due to layoffs or reduction of hours
- Material decrease in household income due to caregiving responsibilities, including child care needs arising from school closures
- Material out-of-pocket medical expenses
- Reduction in number of tenants in a group living situation that reduces remaining tenants' ability to pay rent

If a landlord requests proof of a tenant's covered reason for delayed payment (i.e. COVID-19-related financial distress), a tenant must provide documentation within forty-five days of the request or within

thirty days after the end of the local state of emergency, whichever is later. Examples of supporting documentation include:

- Termination notices
- Payroll checks or pay stubs
- Bank statements
- Letters, emails, texts from employers or supervisors
- Documentation of caregiving responsibilities, including those related to school closures
- Medical bills

Any medical or financial information provided to the landlord shall be held in confidence and shall not be disclosed to other entities unless such disclosure is permitted or required by the law, or unless the tenant authorizes the disclosure of the information in writing.

IMPORTANT: If a tenant follows the requirements of the COVID-19 Tenant Relief Act, they will be protected from eviction. We do not know if a tenant who follows the requirements of the Berkeley COVID-19 Emergency Response Ordinance, but not the COVID-19 Tenant Relief Act, will be protected from eviction. This issue will be decided in court. If you have questions, please speak to a Rent Board housing counselor or legal services provider to make an informed choice about your situation.

The Berkeley COVID-19 Emergency Response Ordinance establishes a repayment period of one year after the end of the local state of emergency for tenants with a covered reason for delayed payment to pay their back rent. This locally established repayment period was changed by the adoption of the COVID-19 Tenant Relief Act. For rent that came/comes due March 17, 2020 to June 30, 2021, Berkeley tenants will have until August 31, 2021 or one year from the end of the local state of emergency, whichever is sooner, to repay their rent (Cal. Code of Civ. Proc. §1179.05(a)(2)(C)). (Note that this date is likely a typo that will be changed to August 31, 2022 in a clean-up bill.)

Local Adopted Amendments Effective July 1, 2021

The Berkeley City Council adopted amendments to the COVID-19 Emergency Response Ordinance that were intended to take effect February 1, 2021. Due to the passage of Senate Bill 91 on January 29, 2021, the amendments cannot take effect until July 1, 2021.

STATE RESTRICTIONS ON EVICTIONS

COVID-19 Tenant Relief Act (Assembly Bill 3088, Senate Bill 91)

The COVID-19 Tenant Relief Act of 2020, part of Assembly Bill 3088, was signed into law on September 1, 2020. This bill established important eviction protections statewide for tenants unable to pay all of their rent because they were financially impacted by COVID-19. These protections were extended by the COVID-19 Tenant Relief Act, part of Senate Bill 91, which was signed into law on January 29, 2021.

What protections are available under state law?

Courts cannot find tenants guilty of unlawful detainer (eviction lawsuit) until July 1, 2021 UNLESS (Cal. Code of Civ. Proc. §1179.03.5):

- Tenant was guilty of unlawful detainer before March 1, 2020
- Tenant failed to timely deliver declaration of COVID-19-related financial distress to the landlord (Landlord must provide a blank copy of the declaration with 15-day notice to pay or quit, Cal. Code of Civ. Proc. §1179.03)

- There is an at-fault just cause (Cal. Code of Civ. Proc. §1946.2(b)(1))
- There is a no-fault just cause other than intent to demolish or substantially remodel (Cal. Code of Civ. Proc. §1946.2(b)(2))
- Rental unit needs to be demolished or substantially remodeled to address habitability issues
- Property owner is in contract for sale of property with buyer who intends to occupy the property and has met requirements of Cal. Code of Civ. Proc. §1946.2(e)(8)

Qualified tenants can never be evicted for non-payment of rent that came due March 1, 2020 to August 30, 2020. Qualified tenants can never be evicted for non-payment of rent that came/comes due September 1, 2020 to June 30, 2021 as long as they pay at least 25% of rent owed by June 30, 2021 (Cal. Code of Civ. Proc. §1179.03(g)).

Who can qualify for state eviction protections related to non-payment of rent?

Tenants who suffer COVID-19-related financial distress can qualify. COVID-19-related financial distress includes (Cal. Code of Civ. Proc. §1179.01(b)):

- Loss of income caused by the COVID-19 pandemic
- Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic
- Increased expenses directly related to the health impact of the COVID-19 pandemic
- Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit a tenant's ability to earn income
- Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic
- Other circumstances related to the COVID-19 pandemic that have reduced a tenant's income or increased a tenant's expenses

How can tenants qualify for these state protections?

If a landlord serves a tenant with proper notice demanding payment of rent and the tenant has COVID-19-related financial distress, the tenant must, within 15 business days, sign and return a declaration of COVID-19-related financial distress to the landlord. Timely responding to any and all notices demanding payment of COVID-19 rental debt accrued March 1, 2020 to June 30, 2021 with the required declarations will protect a tenant from eviction until at least June 30, 2021. If, by June 30, 2021, the tenant pays at least 25 percent of the total rent that came due September 1, 2020 to June 30, 2021, the tenant can never be evicted for rental debt that accrued during this period (Cal. Code of Civ. Proc. §1179.03(g)).

If the tenant fails to timely return the declaration, but has suffered COVID-19-related financial distress and returns the declaration within five business days of being served the unlawful detainer complaint, the court must dismiss the complaint if it finds that the tenant's failure to timely return the declaration was a result of mistake, inadvertence, surprise, or excusable neglect (Cal. Code of Civ. Proc. §1179.03(h)).

High-income tenants may be required to provide documentation of their COVID-19-related financial distress if a landlord has proof in their possession that a tenant is high-income, such as from the rental application. "High-income tenants" are those that earn more than [130% of the county median household income](#). In Alameda County, this is \$154,960 for a family of four. See below for more information.

What obligations and rights do landlords have under state law: the COVID-19 Tenant Relief Act?

Landlords of tenants who did not pay all of their rent from March 1 to August 31, 2020, must have, by September 30, 2020, provided a [notice](#) that informed tenants of their rights under the COVID-19 Tenant Relief Act of 2020 (Cal. Code of Civ. Proc. §1179.04(a)).

Landlords of tenants who had not paid all of their rent from March 1 to January 31, 2021, must, by February 28, 2021, provide a [notice](#) that informs tenants of their rights under the COVID-19 Tenant Relief Act (Cal. Code of Civ. Proc. §1179.04(b)).

In order to serve a 15-day notice to pay or quit, a landlord has to be in compliance with the above notice requirements (Cal. Code of Civ. Proc. §1179.04(d))

A [15-day notice to pay or quit](#) must provide a notification that explains the tenant's rights and obligations and an unsigned [declaration of COVID-19-related financial distress](#) in the same language in which the rental agreement was negotiated (Cal. Code of Civ. Proc. §1179.03).

Don't forget that in Berkeley, [eviction notices must also meet five criteria](#):

1. The landlord must specify one or more of the good causes for eviction.
2. The landlord must allege compliance with the registration and rent ceiling requirements of the Berkeley Rent Ordinance.
3. The landlord must allege substantial compliance with the implied warranty of habitability (no serious repair problems) for all covered units on the property.
4. The landlord must provide a Notice of Tenant Protection Ordinance with any eviction notice.
5. The landlord must file with the Rent Stabilization Board a copy of the notice to quit or notice of termination, and of the summons and complaint, within ten days of the date they are given to the tenant(s).

High-income Tenants: If a landlord has proof in their possession that a tenant is high-income, such as from the rental application, and they send the tenant the [Notice for High-Income Tenant](#), they can require the tenant to, in response to a 15-day notice to pay or quit, provide documentation along with the tenant's declaration to show that the tenant has suffered COVID-19-related financial distress (Cal. Code of Civ. Proc. §1179.02.5). "High-income tenants" are those that earn more than [130% of the county median household income](#). In Alameda County, this is \$154,960 for a family of four.

For rent due March 1 to August 31, 2020, if a tenant returns the [declaration of COVID-19-related financial distress](#), signed under penalty of perjury, within 15 business days each time they receive a 15-day notice to pay rent or quit, the unpaid rent accrued during this time can never be used as the basis for eviction.

For rent due September 1, 2020 to June 30, 2021, if a tenant returns the [declaration of COVID-19-related financial distress](#), signed under penalty of perjury, within 15 business days each time they receive a 15-day notice to pay rent or quit, and, by June 30, 2021, pays at least 25% of the rent that was due during this time, the remaining unpaid rent accrued can never be used as the basis for eviction.

A landlord can sue their tenant to recover unpaid rent in court at the end of the repayment period, which in Berkeley, will likely be August 31, 2022. See below for more information on "Collecting Back Rent."

HOW DO THE BERKELEY COVID-19 EMERGENCY RESPONSE ORDINANCE AND COVID-19 TENANT RELIEF ACT INTERACT?

The repayment period, as described above, in the Berkeley COVID-19 Emergency Response Ordinance has been changed as a result of the COVID-19 Tenant Relief Act. The repayment period must commence on August 1, 2021, and cannot extend beyond August 31, 2021 (Cal. Code of Civ. Proc. §1179.05(a)(2)). (Note that this date is likely a typo that will be changed to August 31, 2022 in a clean-up bill.) If the local state of emergency ends before August 31, 2021, the repayment period will end one year from the end of the local emergency.

Any extension or amendment of Berkeley's COVID-19 Emergency Response ordinance that was in effect August 19, 2020, other than provisions related to the "just causes for eviction", cannot take effect prior to July 1, 2021 (Cal. Code of Civ. Proc. §1179.05(b)). Thus, the amendments to Berkeley's ordinance that were intended to take effect February 1, 2021, cannot take effect until July 1, 2021.

Berkeley's COVID-19 Emergency Response Ordinance and the COVID-19 Tenant Relief Act establish different procedural and minimum rent payment requirements to qualify for eviction protection related to non-payment of rent. It is unclear how a court will resolve questions of implied preemption related to issues that include notice requirements, declarations, and minimum rent payments. For qualified tenants that are able, meeting the state law requirements will guarantee that they cannot be evicted for non-payment of rent. Tenants may risk eviction if they meet the requirements of the local ordinance, but not state law. As noted below, Senate Bill 91 provides funding for lower-income tenants in making the minimum 25% rent payment.

COLLECTING BACK RENT

Landlords can sue their tenants for rent that accrued March 1, 2020 to June 30, 2021 in small claims court, regardless of the amount owed. The earliest landlords can begin these lawsuits is August 1, 2021 (Cal. Code of Civ. Proc. §116.223).

Landlords may also be eligible for federal rental relief that amounts to 80 percent of the rental debt. See "State Rental Assistance Program" below for more information.

ADDITIONAL STATE TENANT PROTECTIONS (Senate Bill 91)

No Late Fees or Other Charges: If a tenant has provided a declaration of COVID-19-related financial distress, a landlord is prohibited from charging late fees, adding or increasing fees for services provided previously without charge (Cal. Code of Civ. Proc. §1942.9).

Prohibit Housing Denials Based on COVID-19 Rental Debt: Housing providers, tenant screening companies, or other entities that evaluate tenants on behalf of housing providers are prohibited from using alleged COVID-19 rental debt as a negative factor in evaluating a housing application or as the basis for refusing to rent a unit to an otherwise qualified prospective tenant (Cal. Code of Civ. Proc. §1785.20.4)

No Assignment or Sale of COVID-19 Rental Debt: Unpaid COVID-19 rental debt cannot be sold or assigned before July 1, 2021. If the debt is of a person in a household whose income is at or below 80

percent of area median income, the debt can never be sold or assigned (Cal. Code of Civ. Proc. §§1788.65, 1788.66).

Prevent Misapplication of Rental Payments: Prohibits a landlord, without a tenant's consent, from using a monthly rent payment to satisfy anything other than prospective rent or from using the security deposit to satisfy COVID-19 rental debt while the tenancy is in effect (Cal. Code of Civ. Proc. §1179.04.5)

Stops All Civil Actions on COVID-19 Rental Debt: Landlords cannot file new debt collection cases in small claims or civil court prior to July 1, 2021 (Cal. Code of Civ. Proc. §871.10(d)).

Allows a Court to Offset Damages: If an eligible landlord rejects assistance (see below), a court in a case for recovery of rental debt may reduce any damages award by the amount that the landlord did not take (Cal. Code of Civ. Proc. §871.10(b)).

FINANCIAL RESOURCES FOR LANDLORDS AND TENANTS IMPACTED BY COVID-19 RELATED NONPAYMENT OF RENT

Berkeley Housing Retention Grants

Berkeley residents at risk of losing their housing due to COVID-19 may be eligible for a housing retention grant. Funds may be used to supplement rent for temporary or permanent housing, utility bills, or other housing-related expenses. Applicants will be required to submit documentation of their low-income status, rental agreement or lease, and other relevant information. Additional information and application guidance can be found at www.cityofberkeley.info/covid19-housing-retention. New applicants should contact the Eviction Defense Center at (510) 452-4541 to be added to a waitlist.

Mortgage Relief (Assembly Bill 3088)

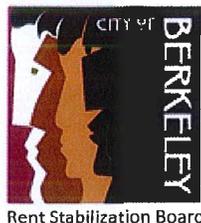
Assembly Bill 3088 provides mortgage relief to homeowners and landlords with four or fewer properties who have had difficulty making mortgage payments because of COVID-19. Property owners can find additional information from the [Business, Consumer Services and Housing Agency](#) and should contact their mortgage servicer directly for more information.

State Rental Assistance Program (Cal. Health and Safety Code §§50897-50897.6)

Senate Bill 91 provides permanent debt relief to tenants who have accumulated rental debt from April 1, 2020 to March 3, 2021, by using federal rental relief to directly pay landlords eighty percent of rental debt owed as long as landlords accept it as full payment and waive the remaining twenty percent (Cal. Code of Civ. Proc. §50987.1(d)). Rental relief funds will be distributed based on priority populations (less than fifty percent area median income, communities disproportionately impacted by COVID-19, less than eighty percent area median income) and uses (rental arrears, prospective rent payments, utilities, other housing expenses) (Cal. Code of Civ. Proc. §§50897.1(b), 50897.1(c)).

The funding allocated to this program is limited, so it is important to apply as soon as you are able. We will update this factsheet as soon as we have more information about how to apply for funding.

If landlords choose not to participate, eligible households can receive up to 25 percent of their unpaid rental debt accrued April 1, 2020 to March 31, 2021 (Cal. Code of Civ. Proc. §50987.1(e)). The bill also provides eligible tenants with 25 percent of future rent payments through June 30, 2021. Thus, the bill enables qualifying tenants to permanently avoid eviction by providing the minimum rental payments required by the COVID-19 Tenant Relief Act.



RENT STABILIZATION BOARD
BUDGET & PERSONNEL COMMITTEE MEETING

Thursday, January 28, 2021

5:00 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE.

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Rent Stabilization Board's **Budget & Personnel Committee** (Committee) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, **there will not be a physical meeting location available.**

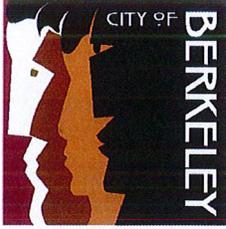
To access this meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device by clicking on this URL: <https://zoom.us/j/94253189030?pwd=S0xOL3MySmFSRWtBUWZWc2RWV1VjUT09>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "Raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-669-900-6833 and enter Webinar ID: 942 5318 9030 and Passcode: 566429. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Committee Chair.

To submit an e-mail comment to be read aloud during public comment, email mbrown@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM FOR BUDGET & PERSONNEL COMMITTEE". Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 3:00 p.m. on the day of the Committee meeting in order to be included.**

Please be mindful that this will be a public meeting and all rules of procedure and decorum will apply for meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with Government Code Section 54953 and all current state and local requirements allowing public participation in meetings of legislative bodies. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Matt Brown, Acting Executive Director, at (510) 981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



Rent Stabilization Board

RENT STABILIZATION BOARD
BUDGET & PERSONNEL COMMITTEE MEETING

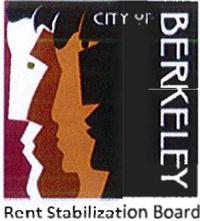
Thursday, January 28, 2021 – 5:00 p.m.

AGENDA

1. Roll Call
2. Approval of Agenda
3. Public Comment
4. Approval of December 10, 2020 Meeting Minutes (Attached to Agenda)
5. Election of Committee Chair
6. Discussion and Possible Action regarding Mid-Fiscal Year Budget Review including Possibly Adding Positions to the Staffing Model (See attached report)
7. Future agenda items
 - ➔ Trainings and team-building exercises for Commissioners
 - ➔ Comparison of 2019 and 2020 counseling service request data
 - ➔ Increasing Commissioner Stipends
 - ➔ Employment Liability Insurance
8. Discussion and Possible Action to set next Committee meeting
9. Adjournment

STAFF CONTACT: Matt Brown, Acting Executive Director (510) 981-7368

COMMITTEE: James Chang, John Selawsky, Leah Simon-Weisberg, Dominique Walker



RENT STABILIZATION BOARD
EVICTION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

Thursday, February 11, 2021

5:00 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE.

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Rent Stabilization Board's **Eviction / Section 8 / Foreclosure Committee** (Committee) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, **there will not be a physical meeting location available.**

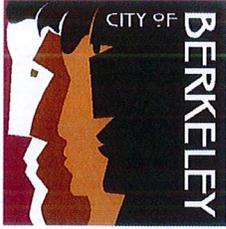
To access this meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device by clicking on this URL: <https://zoom.us/j/93325823965?pwd=MIEvOG8rdFZUMHR4aUduRnE3L2NFUT09>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename Yourself to be anonymous. To request to speak, use the "Raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-669-900-6833 and enter Webinar ID: 933 2582 3965 and Passcode: 968813. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Committee Chair.

To submit an e-mail comment to be read aloud during public comment, email msiegel@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM FOR EVICTION/SECTION 8 COMMITTEE". Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 4:00 p.m. on the day of the Committee meeting in order to be included.**

Please be mindful that this will be a public meeting and all rules of procedure and decorum will apply for meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with Government Code Section 54953 and all current state and local requirements allowing public participation in meetings of legislative bodies. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Matt Brown, Acting Executive Director, at (510) 981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



Rent Stabilization Board

RENT STABILIZATION BOARD
EVICTIION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

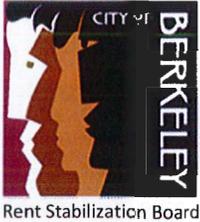
Thursday, February 11, 2021 – 5:00 p.m.

AGENDA

1. Roll call
2. Approval of the Agenda
3. Approval of Minutes of the October 6, 2020 meeting
4. Public Comment
5. Election of Committee Chair
6. Discussion and possible action regarding scope of work of Committee
7. Future Agenda Items
8. Confirm next meeting date (Commissioners: please bring calendars to meeting)
9. Adjournment

STAFF CONTACT: Matthew Siegel – (510) 981.4903

COMMITTEE: Paola Laverde, Mari Mendonca, John Selawsky, Dominique Walker



RENT STABILIZATION BOARD
IRA / AGA / REGISTRATION COMMITTEE MEETING

Tuesday, February 9, 2021

5:00 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE.

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Rent Stabilization Board's **IRA / AGA / Registration Committee** (Committee) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, **there will not be a physical meeting location available.**

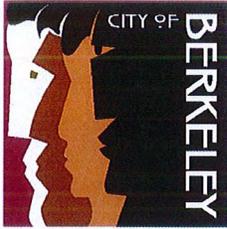
To access this meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device by clicking on this URL: <https://zoom.us/j/91250138724?pwd=V1F2Y2RldGM4aGJxQTlnExPeFdqUT09>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "Raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-669-900-6833 and enter Webinar ID: 912 5013 8724 and Passcode: 503922. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Committee Chair.

To submit an e-mail comment to be read aloud during public comment, email mbrown@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM FOR IRA/AGA COMMITTEE". Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 4:00 p.m. on the day of the Committee meeting in order to be included.**

Please be mindful that this will be a public meeting and all rules of procedure and decorum will apply for meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with Government Code Section 54953 and all current state and local requirements allowing public participation in meetings of legislative bodies. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Matt Brown, Acting Executive Director, at (510) 981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



Rent Stabilization Board

RENT STABILIZATION BOARD

IRA / AGA / REGISTRATION COMMITTEE MEETING

Tuesday, February 9, 2021 – 5:00 p.m.

AGENDA

1. Roll call
2. Approval of the agenda
3. Public Comment
4. Election of Committee Chair
5. Discussion and possible action regarding regulations that address initial lease agreements that contain higher rents for certain months and lower rents for others
6. Discussion and possible action regarding recommending amendments to Berkeley's Tenant Protection Ordinance (B.M.C. Section 13.79.060)
7. Discussion and possible action to discuss Workplan and key dates for Committee work
8. Discussion and possible action regarding future agenda items
9. Confirm next meeting date
10. Adjournment

STAFF CONTACT: Matt Brown, Acting Executive Director (510) 981-4930

COMMITTEE: Soli Alpert, Xavier Johnson, Andy Kelley, Leah Simon-Weisberg



**RENT STABILIZATION BOARD
OUTREACH COMMITTEE MEETING**

Wednesday, February 10, 2021

5:00 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE.

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Rent Stabilization Board's **Outreach Committee** (Committee) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, **there will not be a physical meeting location available.**

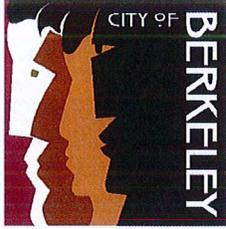
To access this meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device by clicking on this URL: <https://zoom.us/j/92395563551?pwd=Rjc4QklBZiILQWxmbDhtUDZSbDdaUT09>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "Raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-669-900-6833, enter Webinar ID: 923 9556 3551 and Passcode: 117033. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Committee Chair.

To submit an e-mail comment to be read aloud during public comment, email mlaw@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM FOR OUTREACH COMMITTEE". Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 4:00 p.m. on the day of the Committee meeting in order to be included.**

Please be mindful that this will be a public meeting and all other rules of procedure and decorum will apply for meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with Government Code Section 54953 and all current state and local requirements allowing public participation in meetings of legislative bodies. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Matt Brown, Acting Executive Director, at (510) 981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



Rent Stabilization Board

RENT STABILIZATION BOARD
OUTREACH COMMITTEE MEETING

Wednesday, February 10, 2021 – 5:00 p.m.

AGENDA

1. Roll call
2. Approval of the Agenda
3. Approval of the Minutes of the November 18, 2020 meeting
4. Public Comment
5. Election of Committee Chair
6. Potential Survey of COVID-19 Impacts on Landlords and Tenants
7. Eviction Moratorium During Pandemic Emergency: SB 91 Summary
8. Measure MM Outreach Materials
9. Small Property Owners Resources for COVID Relief
10. Outreach Committee 2021 Work Plan
11. Staff Report: Recent and Upcoming Webinars, Workshops
12. Schedule Next Meeting Date
13. Future Agenda Items
14. Adjournment

STAFF CONTACT: Moni T. Law, Housing Counselor (510) 981-4906, Ext. 704

COMMITTEE: James Chang, Andy Kelley, Paola Laverde, Mari Mendonca