



RENT STABILIZATION BOARD
Special Meeting
Monday, April 11, 2022
12:00 p.m.

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

Pursuant to Government Code Section 54953(e)(3), City Council Resolution 70,030-N.S., and City of Berkeley Rent Stabilization Board (Rent Board) Resolution 21-29, this meeting of the **Rent Board** will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Resolutions and the findings contained therein that the spread of COVID-19 continues to be a threat to the public health and that holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies. **Therefore, 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://us06web.zoom.us/j/84468156664?pwd=NzIEdklqQy8rRS9TWmRwbXRiekFEZz09>. 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 1-408-638-0968 and enter Meeting ID: 844 6815 6664 and Passcode: 145495. 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, email amueller@cityofberkeley.info with the Subject line in this format: "RENT BOARD MEETING PUBLIC COMMENT ITEM." Please observe a 150-word limit. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 10:00 a.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 DéSeana Williams, 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

*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. **Land Acknowledgment Statement**: The Berkeley Rent Stabilization Board recognizes that the rental housing units we regulate are built on the territory of xučyun (Huchiun-(Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's landlords and tenants have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878 and since the Rent Stabilization Board's creation in 1980. As stewards of the laws regulating rental housing, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.
3. **Approval of Agenda** – 1 min.*
4. **Public Comment** – 2 min. per speaker for *non*-agendized items*
5. **Public Comment** – 2 min. per speaker for items on the agenda*
6. **ACTION ITEMS**
from Board Members, Committees, Executive Director or Staff
 - a. Discussion and possible action to have the Board take a position on Assembly Bill (AB) AB-2469 Housing: Statewide Rental Registry (Chair Simon-Weisberg & Vice-Chair Alpert) – 20 min.*
 - b. Discussion and possible action to have the Board take a position on AB-2386 Planning and zoning: tenancy in common subject to an exclusive occupancy agreement (Chair Simon-Weisberg & Vice-Chair Alpert) – 20 min.*
 - c. Discussion and possible action to adopt proposed Resolution 22-05 to authorize drafting letters to express the Board's positions on AB-2469 and AB-2386 (Chair Simon-Weisberg & Vice-Chair Alpert) – 5 min.*

7. 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.

AMENDED IN ASSEMBLY APRIL 7, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2469

Introduced by Assembly Member Wicks

February 17, 2022

An act to add Section 1942.10 to the Civil Code, and to add Section 50467 to the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2469, as amended, Wicks. Housing: Statewide Rental Registry.

Existing law continues into existence the Department of Housing and Community Development in the Business, Consumer Services, and Housing Agency. Under existing law, the department is required to develop various plans and policies related to housing.

This bill would require the department to develop and maintain a rental registry online portal designed to collect specified information related to housing and make that information available to the public. The bill would require the department to develop a rental registry form to collect information from landlords, as defined, including the address and owners of a rental property, the number and type of rooms in the rental property, and information related to the payments collected and the duration of tenancies. This bill would require a landlord to submit a rental registry form ~~annually~~, *when a lease is initiated, altered, or terminated*, under penalty of perjury. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

~~The bill would require a city or county with an existing rental registry to include, at minimum, the information required to be collected by the department. By imposing this requirement on cities and counties, this bill would impose a state-mandated local program.~~

Existing law regulates the terms and conditions of residential tenancies and imposes various requirements on landlords, including that a landlord must provide written notice of their intention to terminate a tenancy if the term of the tenancy is not specified.

The bill would prohibit a landlord from providing a tenant notice of a rent increase, notice of an intention to terminate a tenancy, or notice of an unlawful detainer action unless the landlord has submitted a rental registry form, as specified.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) This act shall be known, and may be cited,
- 2 as the Statewide Rental Registry.
- 3 (b) It is the intent of the Legislature in enacting this act ~~to do~~
- 4 ~~all of the following:~~
- 5 ~~(1) Build to build~~ a database of *corporately owned* rental units
- 6 throughout the state of California to support housing development,
- 7 renter protections, and effective implementation of applicable
- 8 California housing laws.
- 9 ~~(2) Prevent homelessness by providing access to data~~
- 10 ~~encompassing the full scope of rental units in the state.~~

1 ~~(3) Provide a publicly accessible portal to local government,~~
2 ~~courts, nonprofit organizations, and residents of this state to submit~~
3 ~~and aggregate accurate rental data.~~

4 SEC. 2. Section 1942.10 is added to the Civil Code, to read:

5 1942.10. A landlord that fails to complete and submit a rental
6 registry form for a dwelling unit, as required by Section 50467 of
7 the Health and Safety Code, shall not take any of the following
8 actions until a form is submitted that substantially complies with
9 that section:

10 (a) Issue a notice of a rent increase.

11 (b) Issue a notice pursuant to Section 1946.1.

12 (c) Issue any notice or initiate any action pursuant to Section
13 1161 of the Code of Civil Procedure.

14 SEC. 3. Section 50467 is added to the Health and Safety Code,
15 immediately following Section 50466.5, to read:

16 50467. (a) For purposes of this section, “landlord” means a
17 ~~person or entity~~ *corporation or limited liability company* that hires
18 dwelling units subject to Chapter 2 (commencing with Section
19 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

20 (b) (1) The department shall develop and administer a rental
21 registry online portal. The rental registry online portal shall be
22 ~~designed to do both of the following:~~

23 ~~(A) Receive to receive~~ information from landlords, as described
24 in subdivision (c), and then make available the information to the
25 public.

26 ~~(B) Receive information from parties other than landlords,~~
27 ~~including, but not limited to, tenants, local governments, courts,~~
28 ~~nonprofit organizations, and residents of this state.~~

29 (2) (A) The department shall create a rental registry form, which
30 shall be made available on the rental registry online portal and
31 allow data entered into the form to be machine readable.

32 (B) The rental registry form shall be drafted to collect from a
33 landlord all of the following information:

34 (i) The legal address of each property, and all associated rental
35 unit numbers.

36 (ii) The legal name of each beneficial owner and the ownership
37 entity for each ~~property, including, but not limited to, limited~~
38 ~~partners, general partners, limited liability company members, and~~
39 ~~shareholders with 10 percent or more ownership of the entity.~~
40 *property.*

- 1 (I) Except as otherwise provided in subclause (II), for the
2 purposes of this section, “beneficial owner” means a natural
3 person for whom, directly or indirectly and through any contract
4 arrangement, understanding, relationship, or otherwise, any of
5 the following applies:
- 6 (ia) The person exercises substantial control over an ownership
7 entity.
- 8 (ib) The person owns 25 percent or more of the equity interest
9 of an ownership entity.
- 10 (ic) The person receives substantial economic benefits from the
11 assets of an ownership entity.
- 12 (II) “Beneficial owner” does not include any of the following:
- 13 (ia) A minor child.
- 14 (ib) A person acting as a nominee, intermediary, custodian, or
15 agent on behalf of another person.
- 16 (ic) A person acting solely as an employee of an ownership
17 entity and whose control over or economic benefits from that
18 ownership entity derives solely from the employment status of the
19 person.
- 20 (id) A person whose only interest in an ownership entity is
21 through a right of inheritance.
- 22 (ie) A creditor of an ownership entity, unless the creditor meets
23 the requirements specified in subclause (I).
- 24 (III) For purposes of this section, “ownership entity” means a
25 corporation or limited liability company that owns real property
26 that is offered for rent or lease.
- 27 (iii) The ownership type of each property and the year the owner
28 acquired the property.
- 29 (iv) The *estimated* year in which the residential structure was
30 originally constructed on the property.
- 31 (v) The number of bedrooms, bathrooms, kitchens, and
32 occupancy status of each rental unit.
- 33 (vi) The month and year that the most current occupancy began
34 for each rental unit.
- 35 (vii) The total number of months that each rental unit was rented
36 during the previous calendar year and the number of months the
37 unit was vacant.
- 38 (viii) The amount of payments collected for rent and utilities in
39 the previous calendar year. This amount shall include the amount
40 paid for utilities that is included in the rent.

1 (ix) The month and year of the effective date of the last rent
2 increase and decrease for each rental unit and the amount of the
3 increase or decrease.

4 (x) The number of tenants, at the reported unit, for which the
5 landlord terminated a tenancy in the previous calendar year, and
6 the reason for each termination.

7 (3) (A) The rental registry online portal, and all forms necessary
8 for its effective and efficient use, shall be complete and prepared
9 to accept landlord submissions by January 1, 2024.

10 (B) The rental registry online portal, and all forms necessary
11 for its effective and efficient use, shall be operational and accessible
12 to the public by January 1, 2025.

13 (C) The rental registry online portal shall be provided in multiple
14 languages.

15 (D) (i) The rental registry online portal shall comply with all
16 relevant state and federal laws regarding privacy and personally
17 identifying information.

18 (ii) The department shall aggregate *by Zip Code* information
19 pertaining to terminations of tenancy and the reasons for
20 termination. The department shall publish this information every
21 five years. Publicly available data on terminations shall not include
22 specific dates or years.

23 (c) (1) A landlord shall complete and submit, under penalty of
24 perjury, a rental registry form for each property. Each landlord
25 shall thereafter complete and submit a rental registry form for each
26 property ~~annually~~. *when a lease is initiated, altered, or terminated.*

27 (2) Landlords, upon completion of the registry, shall receive an
28 electronic confirmation of their submission.

29 ~~(d) For a city or county with an existing rental registry, the~~
30 ~~agency responsible for the registry shall ensure all information~~
31 ~~required to be collected pursuant to subdivision (b) is included in~~
32 ~~the registry and that the registry produces machine readable data.~~
33 *This section does not prevent a city or a county from operating a*
34 *local rental registry. A landlord that provides information to a*
35 *rental registry operated by a city or county is not exempt from the*
36 *requirements of this section.*

37 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
38 ~~Section 6 of Article XIII B of the California Constitution for certain~~
39 ~~costs that may be incurred by a local agency or school district~~
40 ~~because, in that regard, this act creates a new crime or infraction,~~

1 eliminates a crime or infraction, or changes the penalty for a crime
2 or infraction, within the meaning of Section 17556 of the
3 Government Code, or changes the definition of a crime within the
4 meaning of Section 6 of Article XIII B of the California
5 Constitution.

6 However, if the Commission on State Mandates determines that
7 this act contains other costs mandated by the state, reimbursement
8 to local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.

11 *SEC. 4. No reimbursement is required by this act pursuant to*
12 *Section 6 of Article XIII B of the California Constitution because*
13 *the only costs that may be incurred by a local agency or school*
14 *district will be incurred because this act creates a new crime or*
15 *infraction, eliminates a crime or infraction, or changes the penalty*
16 *for a crime or infraction, within the meaning of Section 17556 of*
17 *the Government Code, or changes the definition of a crime within*
18 *the meaning of Section 6 of Article XIII B of the California*
19 *Constitution.*

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-2386 Planning and zoning: tenancy in common subject to an exclusive occupancy agreement.** (2021-2**As Amends the Law Today**

SECTION 1. *Section 65850.10 is added to the Government Code, to read:*

65850.10. *(a) For purposes of this section, the following definitions apply:*

(1) "Design" has the same meaning as in Section 66418.

(2) "Improvement" has the same meaning as in Section 66419.

(3) "Tenancy in common subject to an exclusive occupancy agreement" means a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any portion located thereon.

(b) The legislative body of a local agency may regulate by ordinance the design and improvement of any multifamily property held under a tenancy in common subject to an exclusive occupancy agreement, including by requiring instruments governing the operation and maintenance of common areas.

(c) Notwithstanding this section, a local agency shall not do either of the following:

(1) Prohibit the ability to hold land by tenancy in common subject to an exclusive occupancy agreement.

(2) Limit the area within a property for which a right to exclusive occupancy may be granted.

(d) This section does not supersede any provision of Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1.

ASSEMBLY BILL 2386 (BLOOM)

TENANCY IN COMMON CONVERSIONS

SUMMARY

AB 2386 allows local governments to close a loophole in real estate purchases that have led to speculator purchases of multi-family housing and the displacement of long-term tenants. The measure allows local agencies to regulate the conversion of multi-family units to tenancy in common developments, ensuring orderly community developments and increasing transparency with the conversion process.

EXISTING LAW

Existing law grants cities the right to regulate conversions of multi-family residential rental properties to common interest developments, such as condominiums, stock cooperatives, community apartment projects and planned developments through the authority vested by the Subdivision Map Act. The Act allows cities to facilitate orderly community development, coordinate planning and assure proper improvements are made.

Existing law also defines common interest developments as projects in which the developer records its intent to create the development. If the developer does not make a formal recordation, the project does not fall within the definition of a common interest development, and as such, is not required to follow the state and local regulations around common interest development formation (e.g. condo conversions).

THE PROBLEM

Tenancy in common is a type of shared ownership in which each person has the exclusive right to occupy their unit and shares ownership rights of the property with two or more people. This type of ownership model is often used by family members residing on the same property. If used for the conversion of duplexes and triplexes, tenancy in common offers a unique and affordable option for homeownership.

THE PROBLEM Cont.

Unfortunately, tenancy in common conversions have been used as a loophole in real estate transactions to effectively turn multi-family housing into condominiums, which in turn encourages speculator purchases and the displacement of long-term tenants. Speculators are targeting existing multi-family properties and advertising the sale of unit ownership to prospective buyers looking to become homeowners in expensive markets. Because the tenancy in common structure is not defined as a common interest development in state law, speculators are not required to adequately disclose the state of the property, the laws protecting existing tenants, and the potential risks with the transaction— protections and guidelines that are typical of condominium conversions.

THE SOLUTION

AB 2386 closes the loophole in state law that has allowed speculators to circumvent state and local laws that regulate common interest development conversions. AB 2386 would not prohibit tenancy in common conversions or limit the area owners would occupy. The measure would simply allow local agencies to create parameters to such conversions, similar to the requirements laid out in the Subdivision Map Act. AB 2386 will ensure speculator purchases do not grow rampant amongst communities with long-term tenants, ensure those interested in buying an interest receive the proper disclosure and protections, and support the orderly development of local communities.

SUPPORT

City of West Hollywood (Sponsor)

Public

RESOLUTION 22-05**BERKELEY ELECTED RENT STABILIZATION BOARD TAKES POSITIONS ON ASSEMBLY BILLS 2386 AND 2469**

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

WHEREAS, the Berkeley Rent Board has a fundamental interest in supporting all legislation that protects the interests of tenants, prevents unnecessary displacement of vulnerable members of the community, and promotes stabilization of neighborhoods; and

WHEREAS, the Board often takes a position on state legislation that affects the state's and Berkeley's ability to promote safe and affordable housing policies; and

WHEREAS, currently, the legislature is considering two bills – AB-2386 (Planning and Zoning: tenancy in common subject to an exclusive occupancy agreement) and AB-2469 (Housing: Statewide Rental Registry) – that would affect landlords and tenants in Berkeley and all California Cities; and

WHEREAS, the Board has an interest in communicating a position on these bills in the hopes that state legislators will protect the interests of affordable housing.

NOW, THEREFORE, BE IT RESOLVED that the Berkeley Rent Board authorizes Board Chair Leah Simon-Weisberg and/or the Board's legislative advocate, Brian Augusta, to draft and sign letters to the various sponsors of AB-2386 and AB-2469 that relay the Board's positions as expressed in today's meeting.

Dated: April 11, 2022

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

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chair
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director