



RENT STABILIZATION BOARD
Regular Meeting
Thursday, March 17, 2022
7:00 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/87860075481?pwd=a2RZaDdMK1duME9TbVBaNUtKVkh1QT09>. 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: 878 6007 5481 and Passcode: 109891. 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 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 DéSeana Williams, Executive Director, at (510) 981-7368. The Rent Board may take action related to any subject listed on the Agenda.

RENT STABILIZATION BOARD
Regular Meeting
Thursday, March 17, 2022
7:00 p.m.

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. **SPECIAL PRESENTATION**: “Densifying Berkeley: Potential Impacts on Displacement and Equity” by the Anti-Eviction Mapping Project

6. **CONSENT ITEMS** – 1 min.*
 - a. Approval of February 17, 2022 regular meeting minutes

7. **Public Comment** – 2 min. per speaker for items on the agenda*

8. **ACTION ITEMS**
from Board Members, Committees, Executive Director or Staff
 - a. Mid-Fiscal Year 2021-2022 Budget Report and recommendation to adopt Resolution 22-03 authorizing changes to the Staffing Model (Budget & Personnel Committee) – 15 min.*

- b. 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) – 10 min.*
- c. Discussion and possible action to have the Board take a position on AB-2297 Tenancy: fee in lieu of a security deposit (Chair Simon-Weisberg & Vice-Chair Alpert) – 10 min.*
- d. Discussion and possible action to have the Board take a position on AB-2713 Tenant protections: just cause termination: rent caps (Chair Simon-Weisberg & Vice-Chair Alpert) – 10 min.*
- e. Discussion and possible action to recommend various amendments to the Rent Stabilization and Eviction for Good Cause Ordinance to be placed on the November 2022 general election ballot (LIRA Committee) – 20 min.*
- f. Recommendation to adopt Resolution 22-04 calling for Alameda County Supervisors to continue the Countywide COVID-19-related Eviction Moratorium (Chair Simon-Weisberg) – 5 min.* **TO BE DELIVERED**

9. **INFORMATION, ANNOUNCEMENTS AND ARTICLES/MEDIA**
from Board Members, Committees, Executive Director or Staff

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

- a. Update on remote meeting possibilities for future meetings – *Verbal* (General Counsel) – 5 min.*
- b. Deadline to submit comments for the City’s Housing Element Administrative Draft is April 1st (Chair Simon-Weisberg) – 2 min.*
- c. Update regarding restoring commissioners’ access to their Rent Board email accounts – *Verbal* (Chair Simon-Weisberg/Board Secretary) – 2 min.*
- d. Update on the City’s Website Reinvention Project timeline and the Rent Board’s content migration – *Verbal* (Executive Director/Board Secretary) – 2 min.*
- e. Berkeley Rent Board presentation at FLEJCON Conference on March 12, 2022 – *Verbal* (Executive Director) – 3 min.*
- f. February 23, 2022 memo from City Manager Dee Williams-Ridley regarding the California Community Housing Agency Middle Income Rental Housing Program (CalCHA) & 2020 Kittredge Street Acquisition Information (Chair Simon-Weisberg) – 2 min.*

- g. March 12, 2022 “Community Health is Wealth Fair” event flyer (Executive Director) – 1 min.*
- h. Date to submit agenda topics/items for the April 21st Rent Board meeting: **Monday, April 11th at 5:00 p.m.** NOTE: This is a hard deadline and will be enforced.

10. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget and Personnel Committee (Commissioner Chang, Chair) – 5 min.*
Next regularly-scheduled meeting: Tuesday, March 29th at 5:00 p.m.

March 8th agenda
- b. Eviction/Section 8/Foreclosure Committee (Commissioner Mendonca, Chair) – 5 min.*
Next regularly-scheduled meeting: Thursday, March 24th at 5:30 p.m.
- c. Legislation, IRA/AGA & Registration Committee (LIRA Committee) (Commissioner Kelley, Chair) – 5 min.*
Next regularly-scheduled meeting: Tuesday, April 5th at 5:00 p.m.

March 9th agenda
- d. Outreach Committee (Commissioner Laverde, Chair) – 5 min.*
Next regularly-scheduled meeting: Wednesday, March 16th at 5:15 p.m.

March 16th agenda
- e. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District (Chair TBA) – 3 min.*
Regularly-scheduled meeting date: TBA
- f. 4 x 4 Joint Committee on Housing: City Council/Rent Board – 5 min.*
(Mayor Arreguín and Chair Simon-Weisberg, Committee Co-Chairs)
Next regularly-scheduled meeting: Wednesday, March 23rd at 3:00 p.m.

February 23rd agenda packet
- g. Ad Hoc Committee on Rent Board Technology Issues (Commissioner Selawsky, Chair) – 3 min.*
Next meeting date: TBA
- h. Updates and Announcements – 3 min.*
- i. Discussion of items for possible placement on future agenda – 5 min.*

11. CLOSED SESSION: The Board will meet in closed session as follows:

- a. Public Employee Evaluation of Performance pursuant to California Government Code Section 54957(b)(1)

Title: Executive Director

- b. Conference with Labor Negotiators pursuant to California Government Code Section 54957.6

Agency Designated Representative: Board Chair

Unrepresented Employee: Executive Director

- c. Pursuant to California Government Code Section 54956.9(a), the Board also will convene in closed session for an update on litigation:

Williams, et al. v. Alameda County, Alameda County Board of Supervisors, City of Oakland, Oakland City Council (United States District Court for the Northern District of California Case 3:22-cv-01274-LB) – amicus brief

The Board will announce any action taken during closed session when they return to open session.

- 12. ACTION ITEM:** Oral recommendation regarding proposed changes, if any, to salary and/or fringe benefits of Executive Director (Full Board) – 10 min.*

- 13. ACTION ITEM:** Discussion and possible approval of changes, if any, to salary and/or fringe benefits of Executive Director (Full Board) – 10 min.*

14. 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.

Densifying Berkeley: Potential Impacts on Displacement and Equity

Overview

Berkeley, like many California and Bay Area cities, is experiencing an affordable housing crisis.

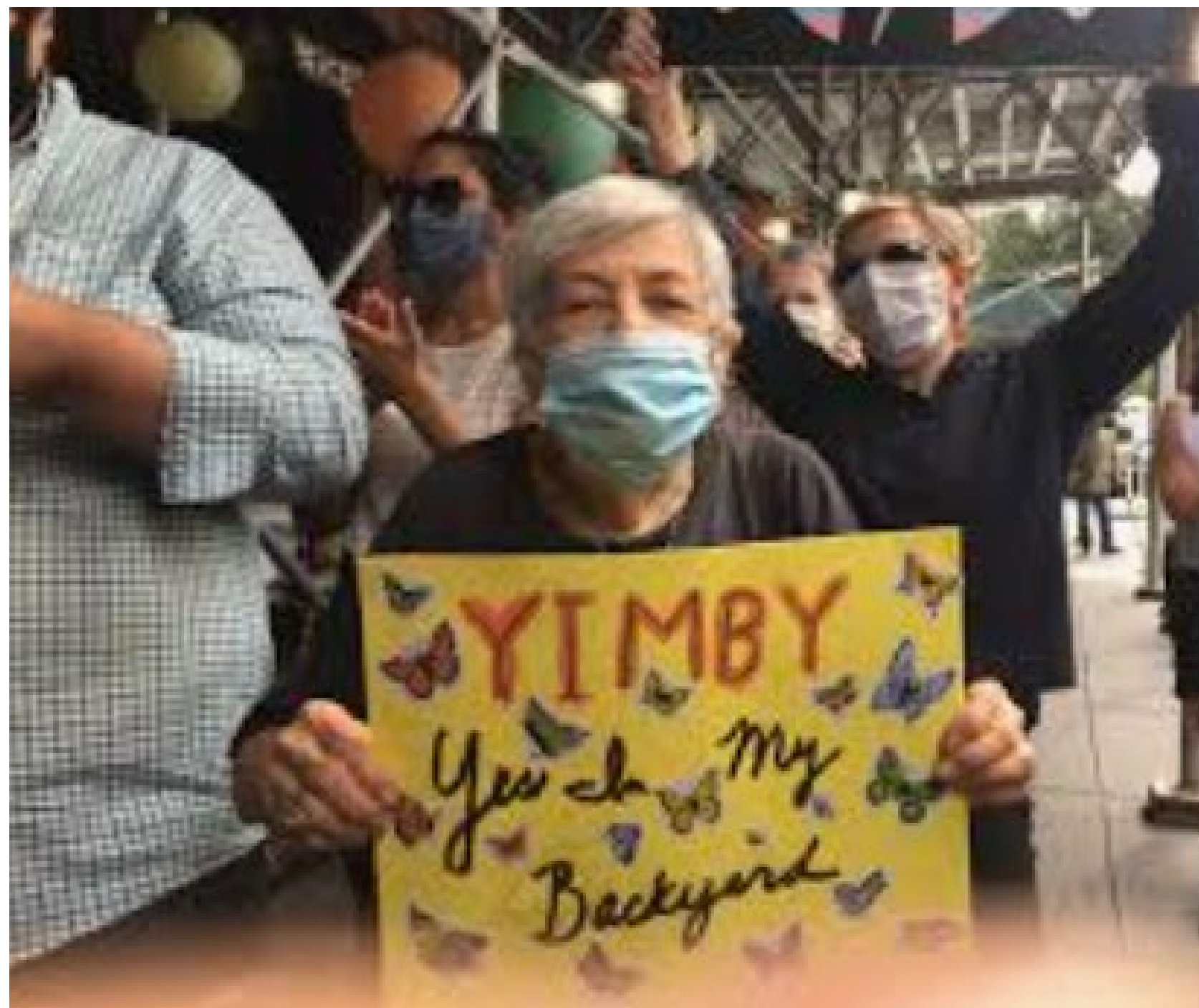
- Between 2005-2019, the median gross rent for the city **increased by over 50%**
- **In 2019, 53% of tenant households in Berkeley are rent burdened, and almost a third spent more than 50% of their income on rent**

As the City of Berkeley contemplates how to implement SB 9 and revise the Housing Element with denser zoning laws to build more housing, this study investigates the impacts of upzoning and densification, especially on Black, brown, and low-income renters.

Our recommendations focus on how Berkeley can use zoning reform in combination with its strong tenant protections to distribute the benefits of upzoning more equitably, and to mitigate the risks of displacement and of racial exclusion.

DEBATES AROUND UPZONING

Densification
and the false
YIMBY vs.
NIMBY
dichotomy



ZONING IN BERKELEY

Current residential zoning in Berkeley reflects legacies of racist exclusionary practices: A majority of the city is zoned for R1-R1A, R2-R2A

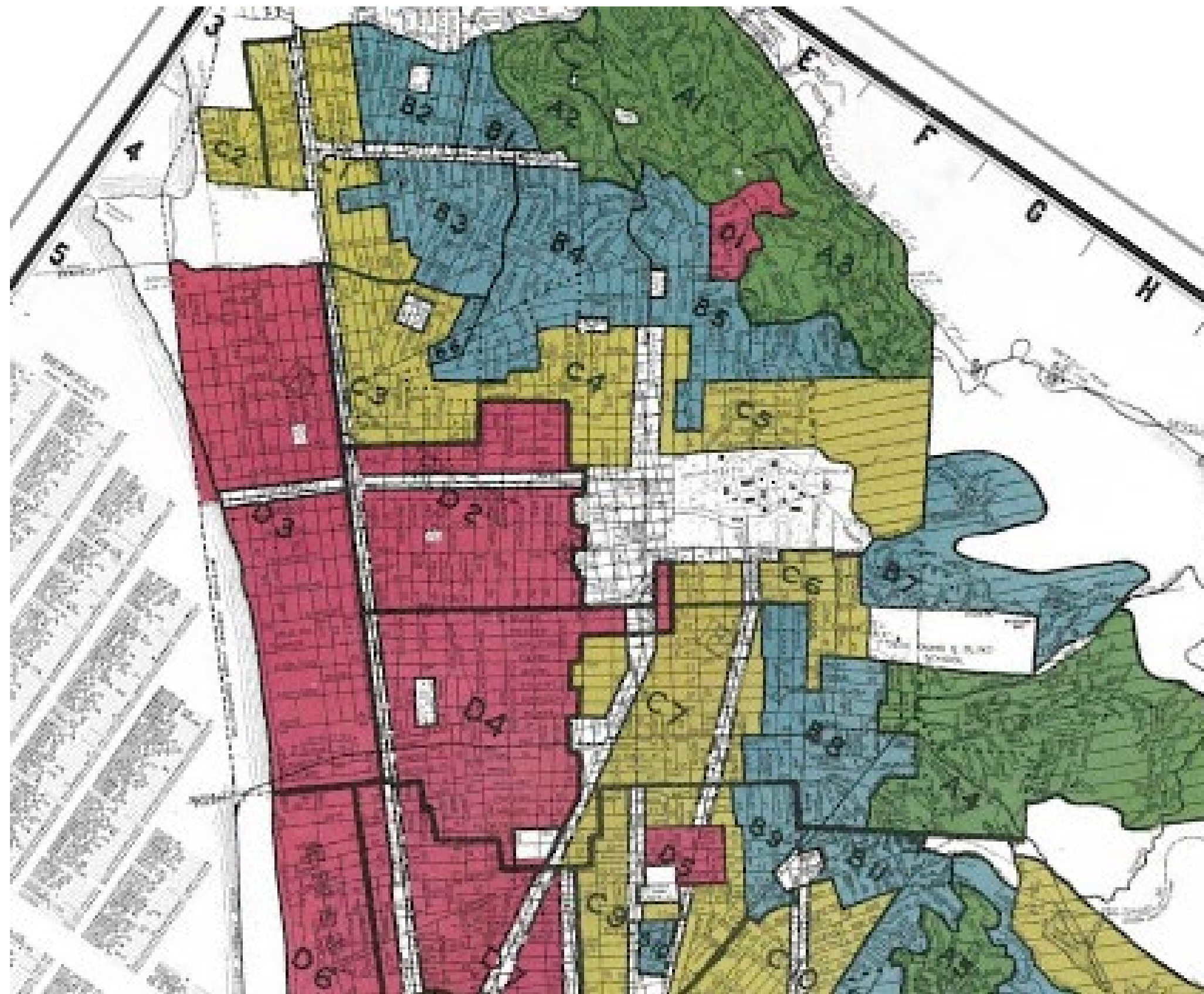


Image shows racially discriminatory HOLC map of Berkeley. Areas in North and southeast Berkeley are green and blue, indicating white populations, while West and South Berkeley are red, indicating neighborhoods with Black or Asian communities.

- Single Family, Limited two family (R1, R1A)
- Two-family Residential, Restricted Multiple-family Residential (R2, R2A)
- Multi-family Residential (R3, R4)
- Residential High Density SubArea (RS, RSMU)
- Mixed Use Residential (MUR)
- Commercial Zones

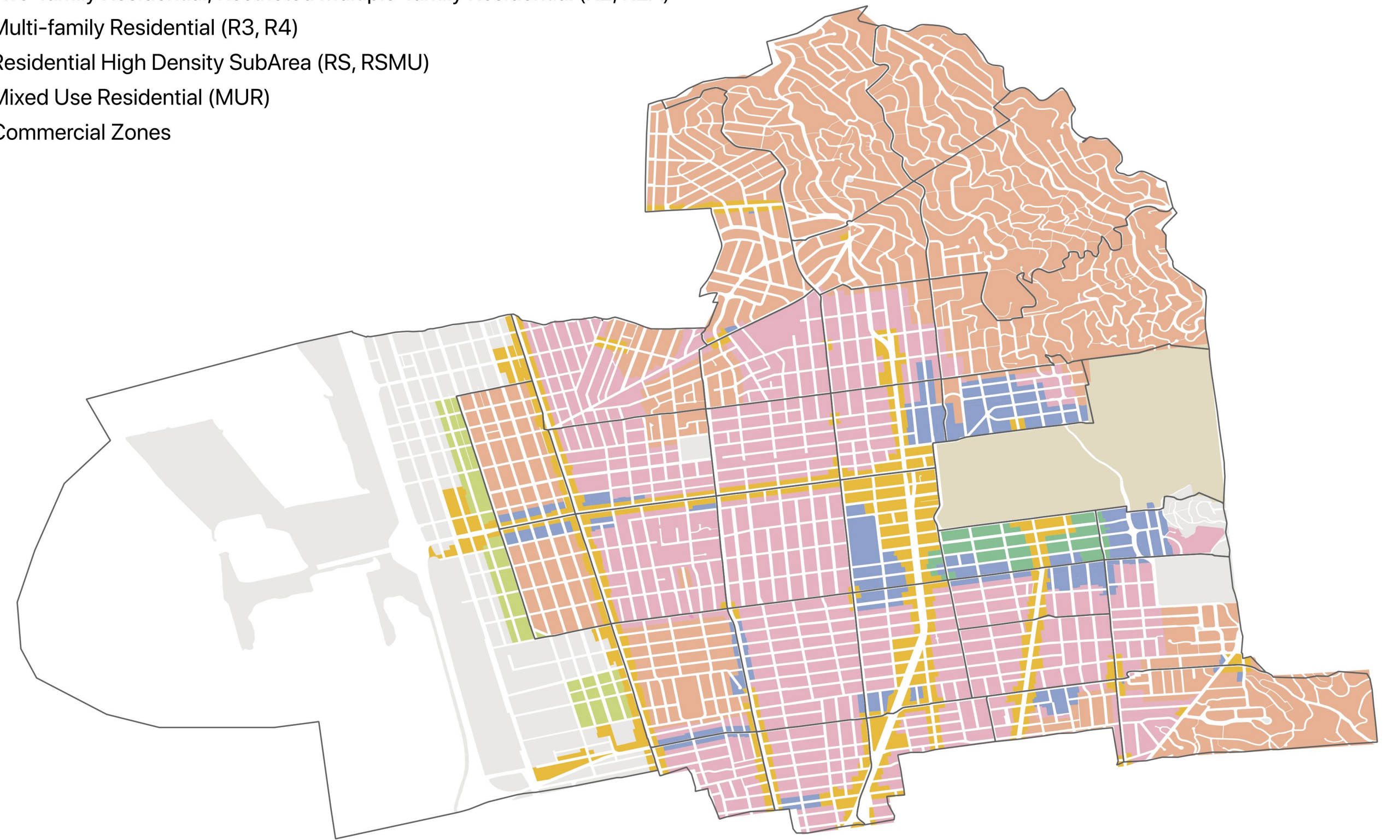


Image shows current residential zones in Berkeley.

Current development practices favor market-rate housing

Affordable housing, most of which are achieved through inclusionary bonuses, have only accounted for 8.6% of all permits in this RHNA cycle (2015-2023)

Our studies shown in future slides indicate that upzoning policies must address this deficit in housing development in order to protect low income communities and further racial equity

Table 2. 2020 RHNA Allocation Progress

Income Level ¹	5 th Cycle RHNA Allocation	Units Permitted (2020)	Total Units Permitted (2015-2020)	Remaining Units	Percent Progress
Very Low (< 50% AMI)	532	38	172	360	32%
Low (50 – 80% AMI)	442	13	61	382	14%
Moderate (80 – 120% AMI)	584	-	-	584	0%
Above Moderate (> 120% AMI)	1401	539	2476	-	177%
Total RHNA	2959				
Total Units Permitted		590	2709		

BERKELEY'S AFFORDABLE HOUSING CRISIS

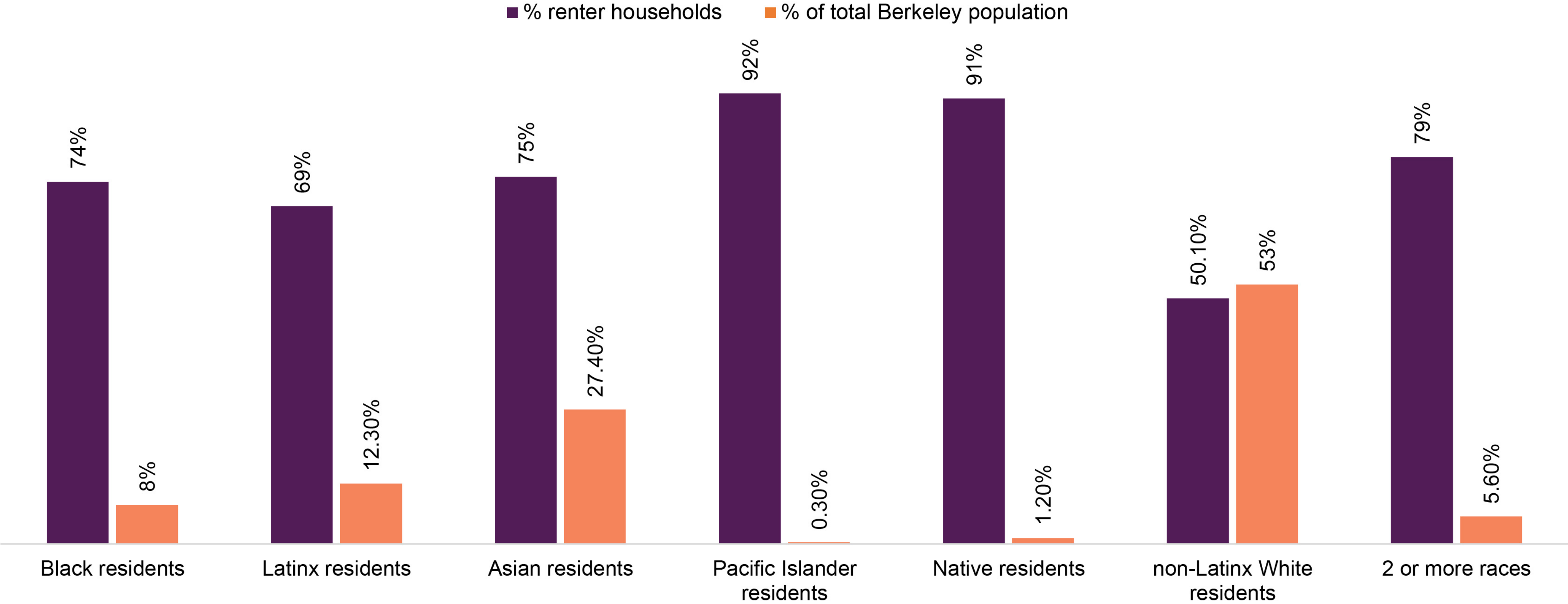
KEY FINDINGS FROM THIS SECTION:

- THE PRIVATE MARKET IS UNABLE TO PRODUCE SUFFICIENT LEVELS OF AFFORDABLE HOUSING, EVEN WITH SUBSIDIES AND OTHER INCENTIVES.
- AFFORDABLE HOUSING IS MORE EFFECTIVE AT COMBATING DISPLACEMENT THAN MARKET-RATE DEVELOPMENT.
- THE GREATEST DEFICIT IN BERKELEY'S HOUSING SUPPLY LIES AT LOW INCOME (50-80% AMI) AND VERY LOW INCOME (<30-50% AMI) LEVELS; ONLY 30% OF THESE RESIDENTS ARE ADEQUATELY HOUSED.

53% of Berkeley renter households were rent burdened in 2019: a total of 13,794 households

Berkeley residents who are Black, Indigenous, and people of color are disproportionately renters rather than homeowners and are therefore disproportionately vulnerable to high rents and rent burden.

Percent Renter Occupancy vs. Percent Berkeley Population, 2019



Source: American Community Survey, 2019 5-yr estimate

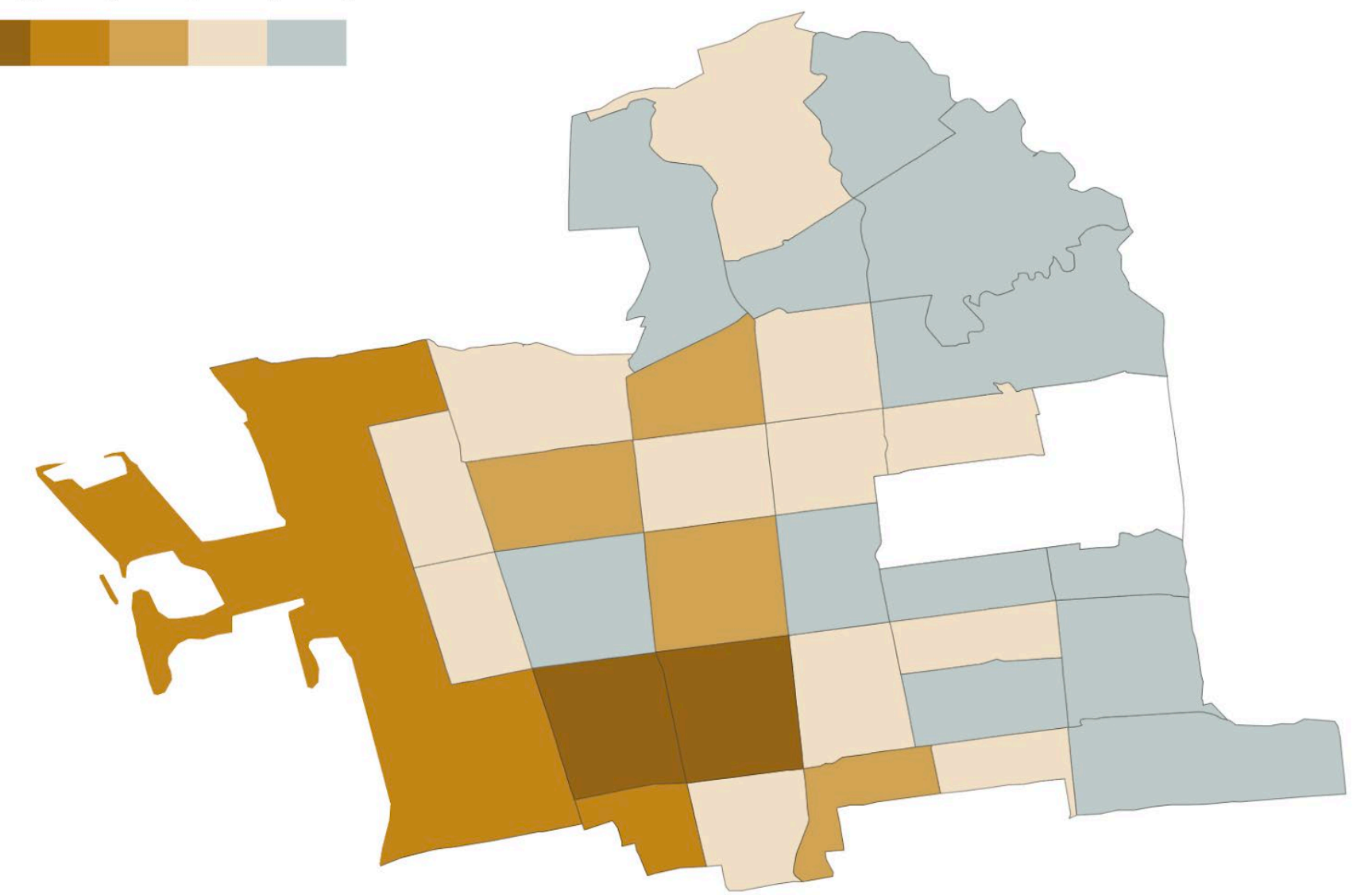
Increase in rent & displacement of low income renters

2019, the estimated average rent in Berkeley was \$3,165 per month.

Between 2005-2019, the median gross rent paid (including estimated cost of utilities) in Berkeley increased by over 50%, and:

- Households earning \$200,000 or more per year increased by 124%
- In contrast, households in Berkeley earning less than \$75,000 per year decreased 22.8%
- Black residents, who are primarily renter households, decreased by 21%, a rate higher than any other racial or ethnic group

% Change in Black Population, 2009-2019

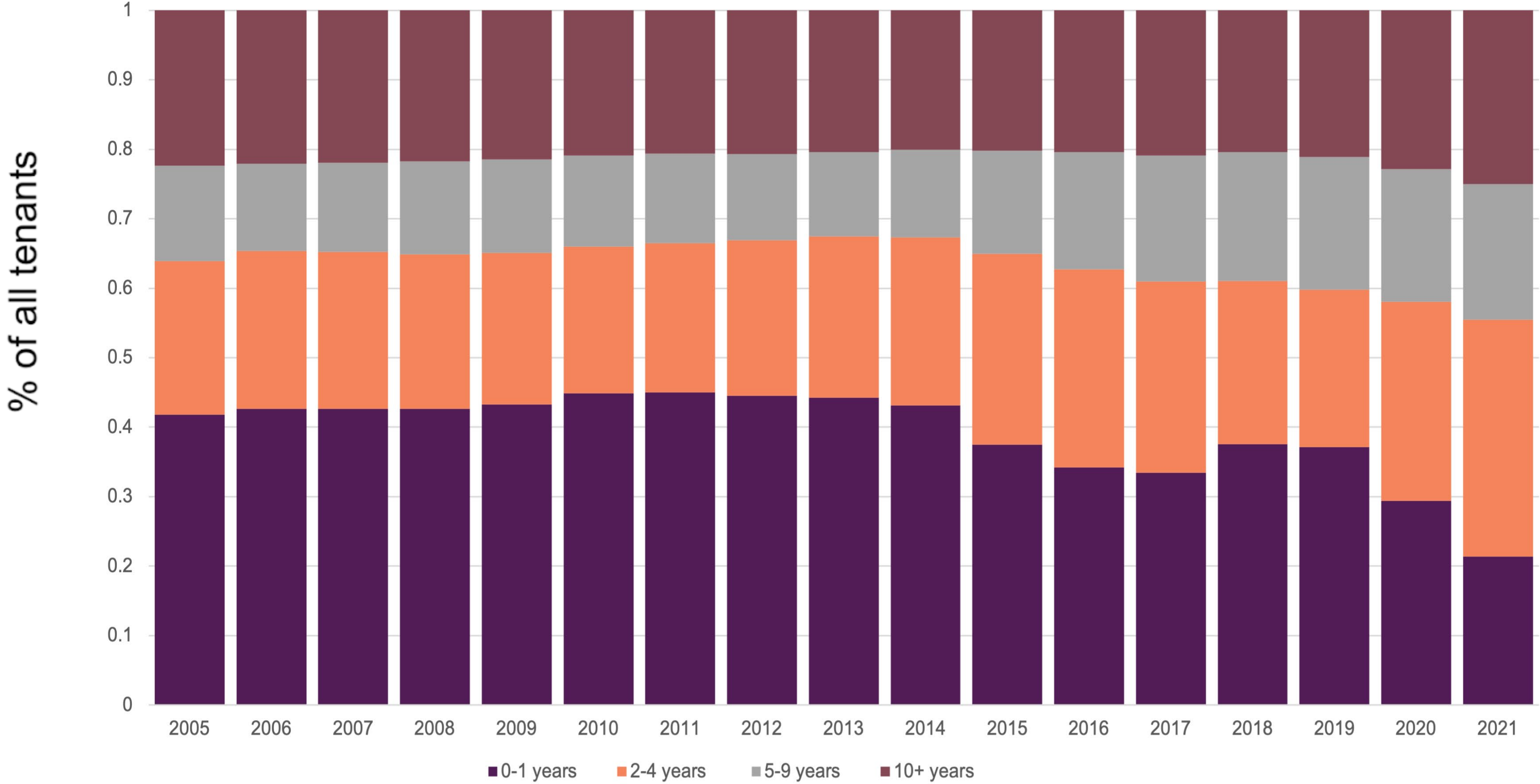


□ UC Berkeley

*NOTE: not all of these households are renters, though a majority are

Since 1999, 90.7% of rent stabilized units have risen to market rate in between tenant vacancies, which further diminishes the supply of truly affordable units for low-income renters seeking housing.

Median length of tenancy for stabilized units, 2005-2021



42.6% of tenancies lasted from 0-1 years

22.7% of tenancies lasted from 2-4 years

13.4% of tenancies lasted from 5-9 years

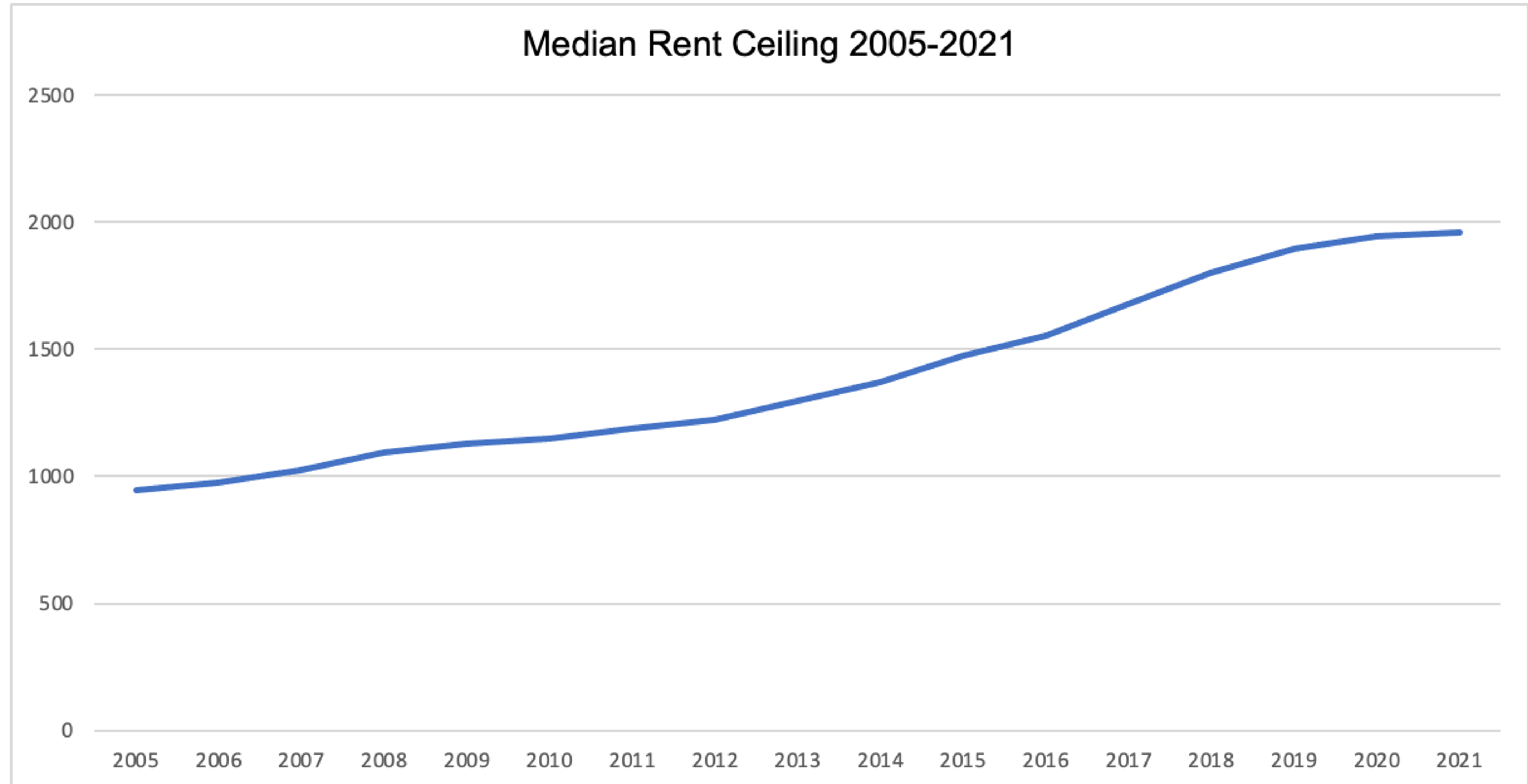
20.8% of tenancies lasted 10+ years

Source: Berkeley Rent Stabilization Board, tenancy data 2005-2021

The median rent ceiling for stabilized units has about doubled from 2005-2021

In Q3 of 2021, the median rent ceiling for the 1,801 units with tenancies starting before 1999 was **\$832.87**

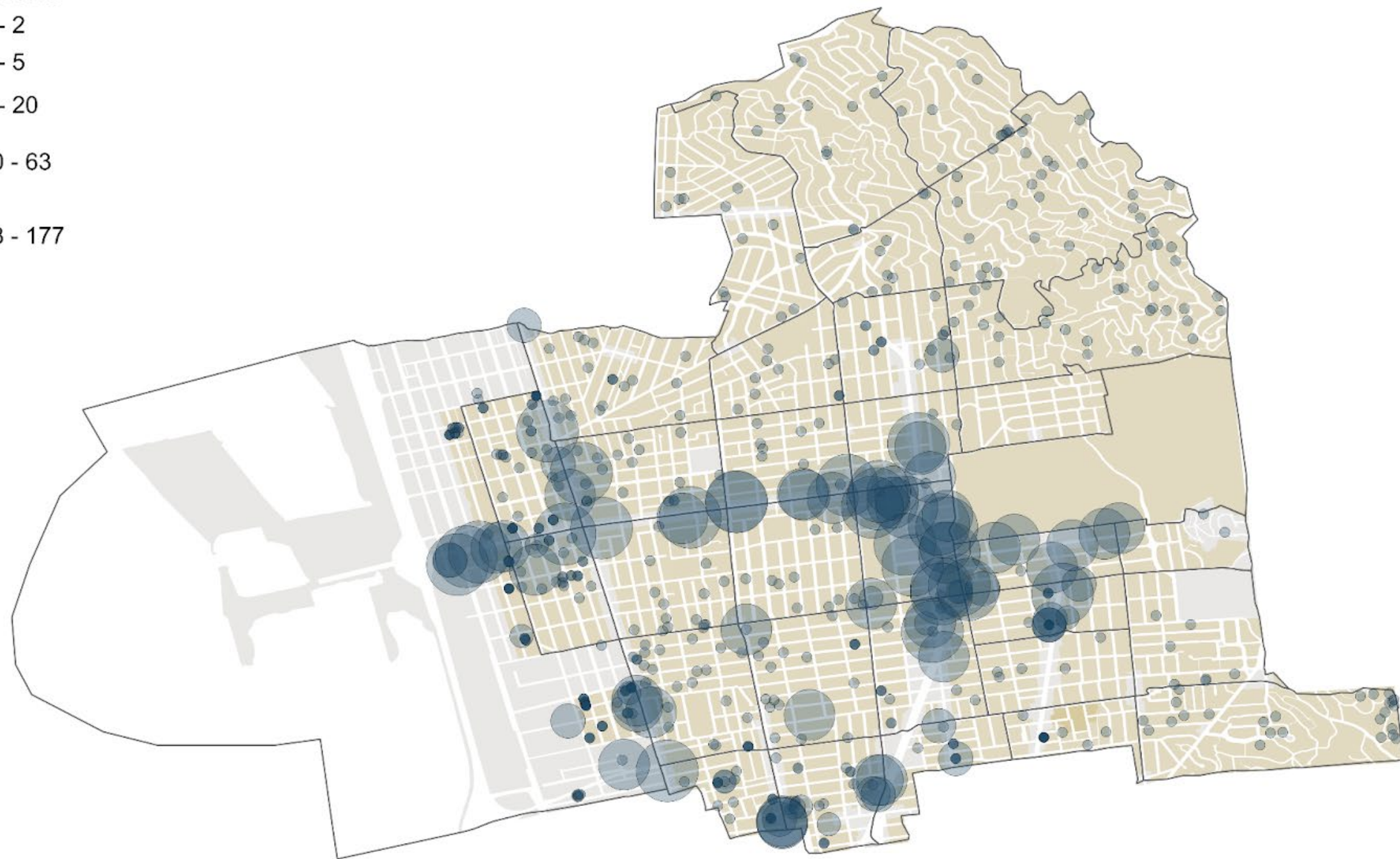
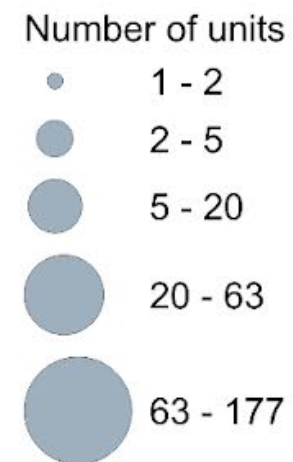
This compares to the remaining 17,599 units that undergo vacancy decontrol-recontrol, whose median rent was \$2,263.52



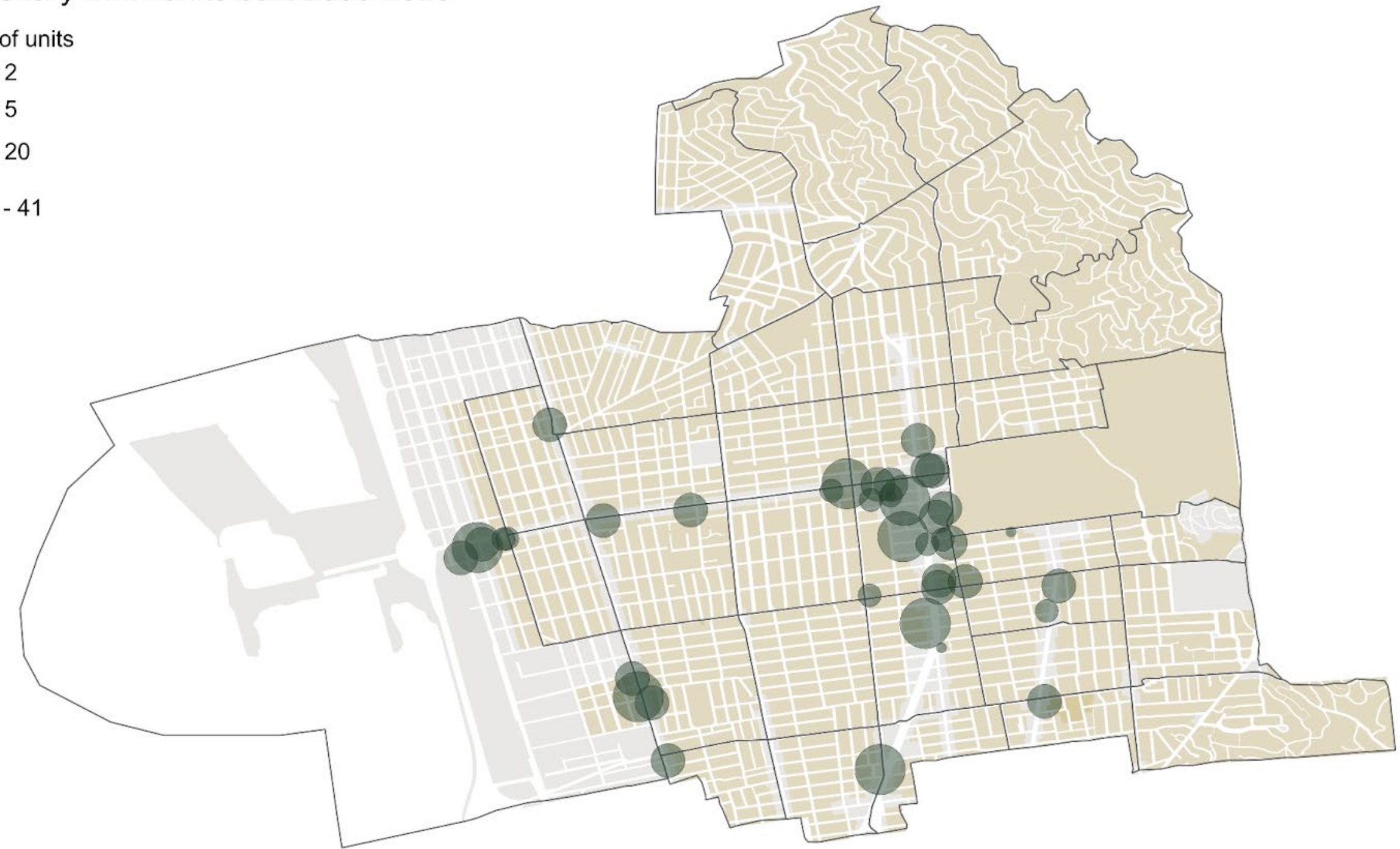
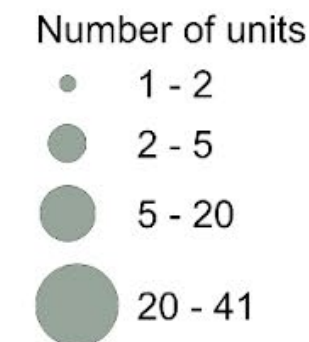
Our studies find that additional affordable units decreased the likelihood of displacement, while an increase in general supply of housing remained inconclusive in its impact to mitigate displacement.

This RHNA cycle, only 233 units have been permitted at Low-Income (50 – 80% AMI) or Very Low Income (< 50% AMI) levels, continuing the decades-long pattern of relying on market-rate development to solve the housing crisis.

Total Units Constructed 2000 - 2020

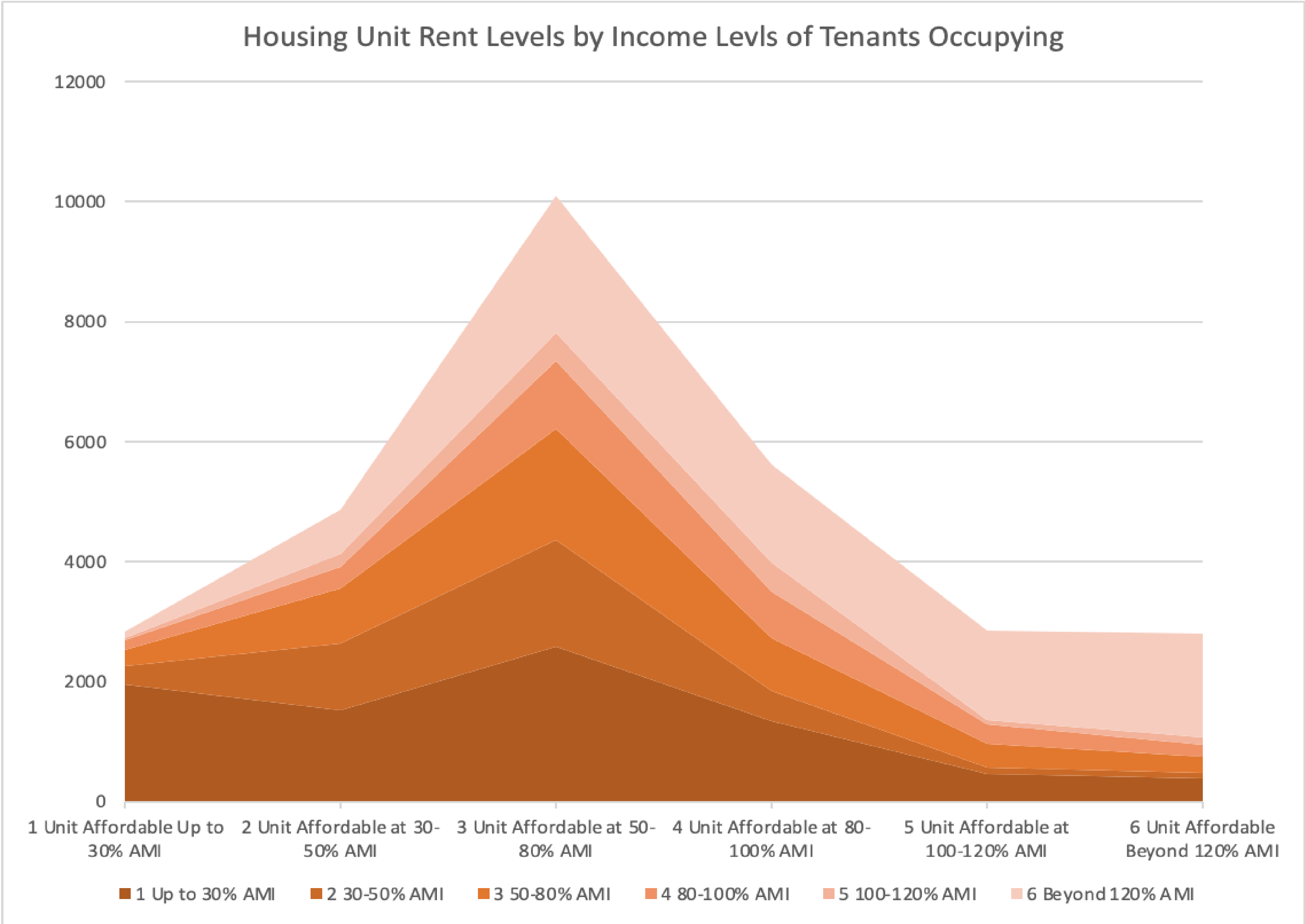


Inclusionary BMR units built 2000-2020



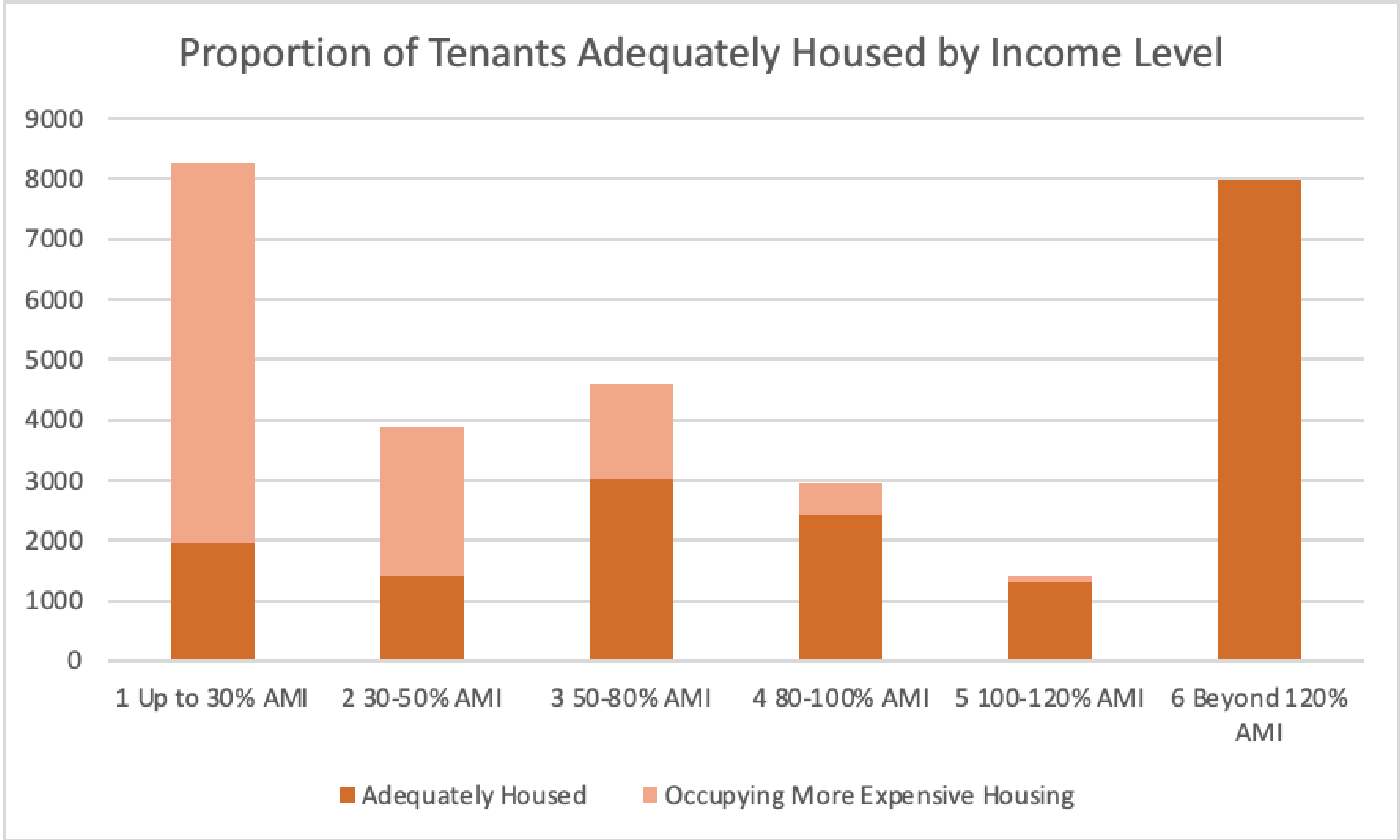
Residential Zones
2010 Census Tracts

70% of households below 80% of Area Median Income (AMI) occupy units that are unaffordable to them.



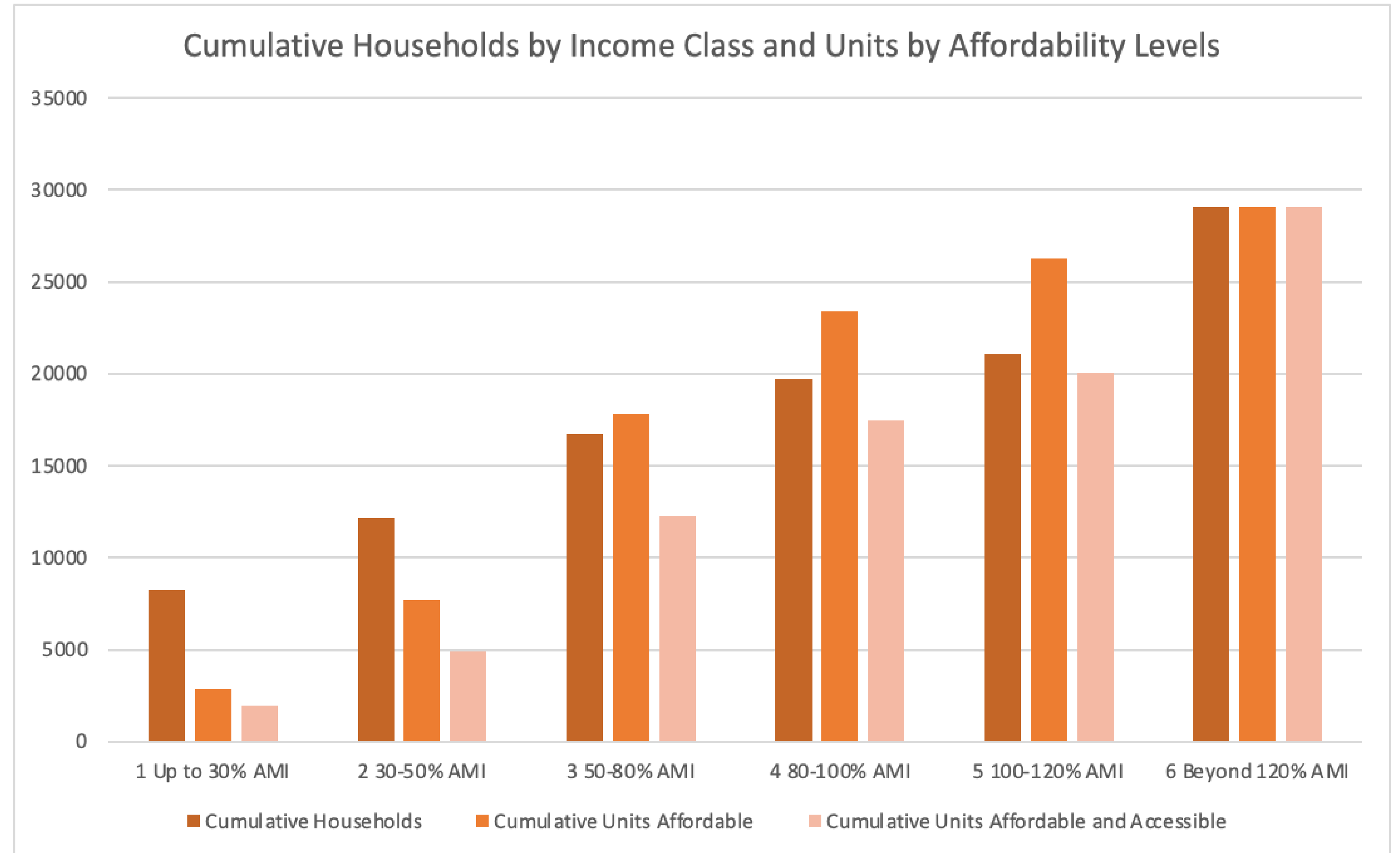
Lowest income groups are severely inadequately housed.

6,314 households earning up to 30% AMI occupy more expensive housing. In contrast, only 122 households earning above 100% AMI live in a higher affordability category; all 120%+ AMI residents are adequately housed.



Access to affordable units on the market, as well as deficit in overall supply, is a significant barrier to low-income households being adequately housed.

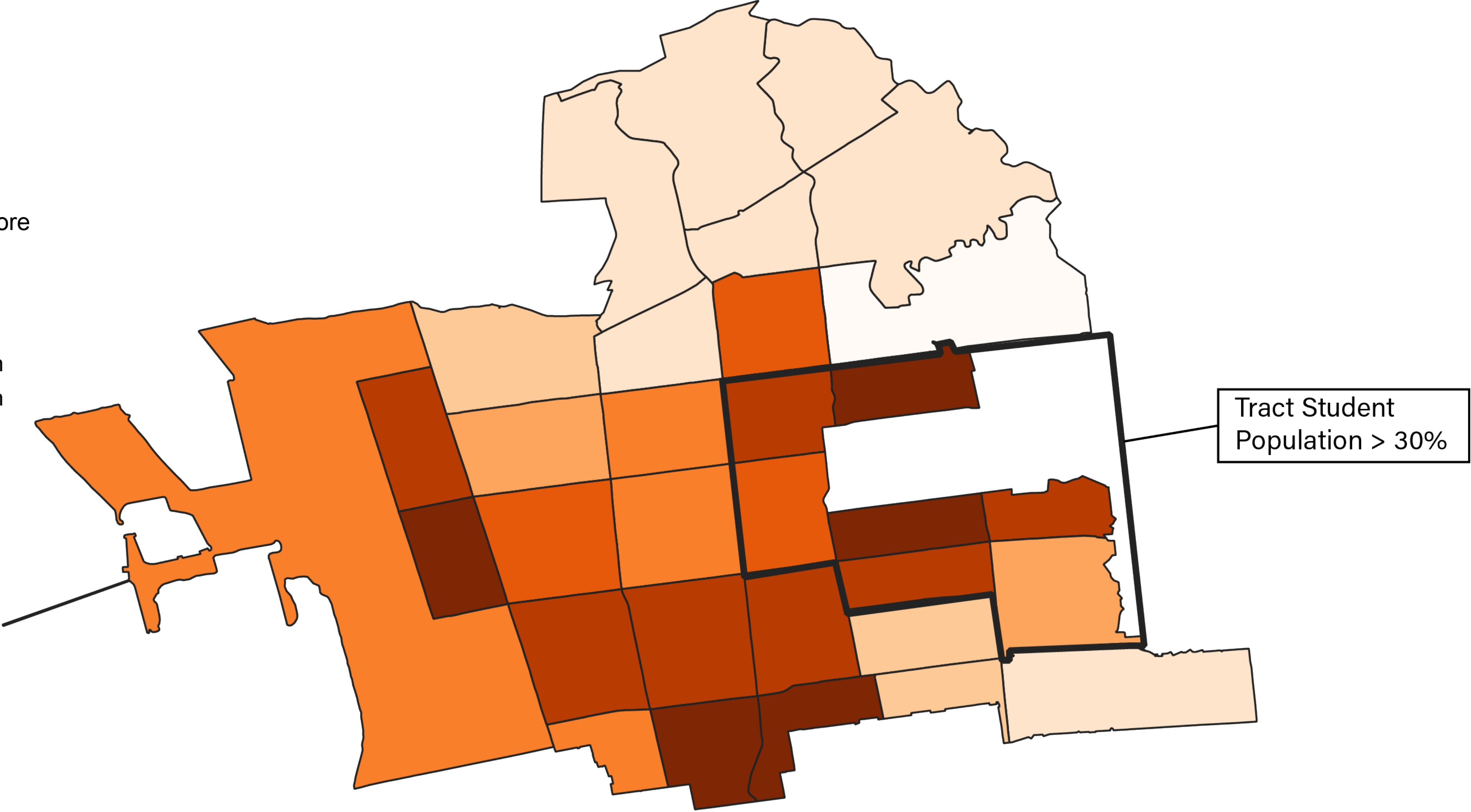
The deficit in available units at high income levels is attributable to lower income households who are pushed up and out of their own affordability categories by an absolute lack of affordable housing.



Current West Berkeley and South Berkeley residents are the most vulnerable to displacement by densification; North Berkeley and southeast Berkeley residents have minimal or low risk.

Relative Vulnerability Score

- 0 – Minimal Concern
- 1 – Less Concern
- 2 – Less Concern
- 3 – Moderate Concern
- 4 – Moderate Concern
- 5 – High Concern
- 6 – High Concern
- 7 – Most Concern



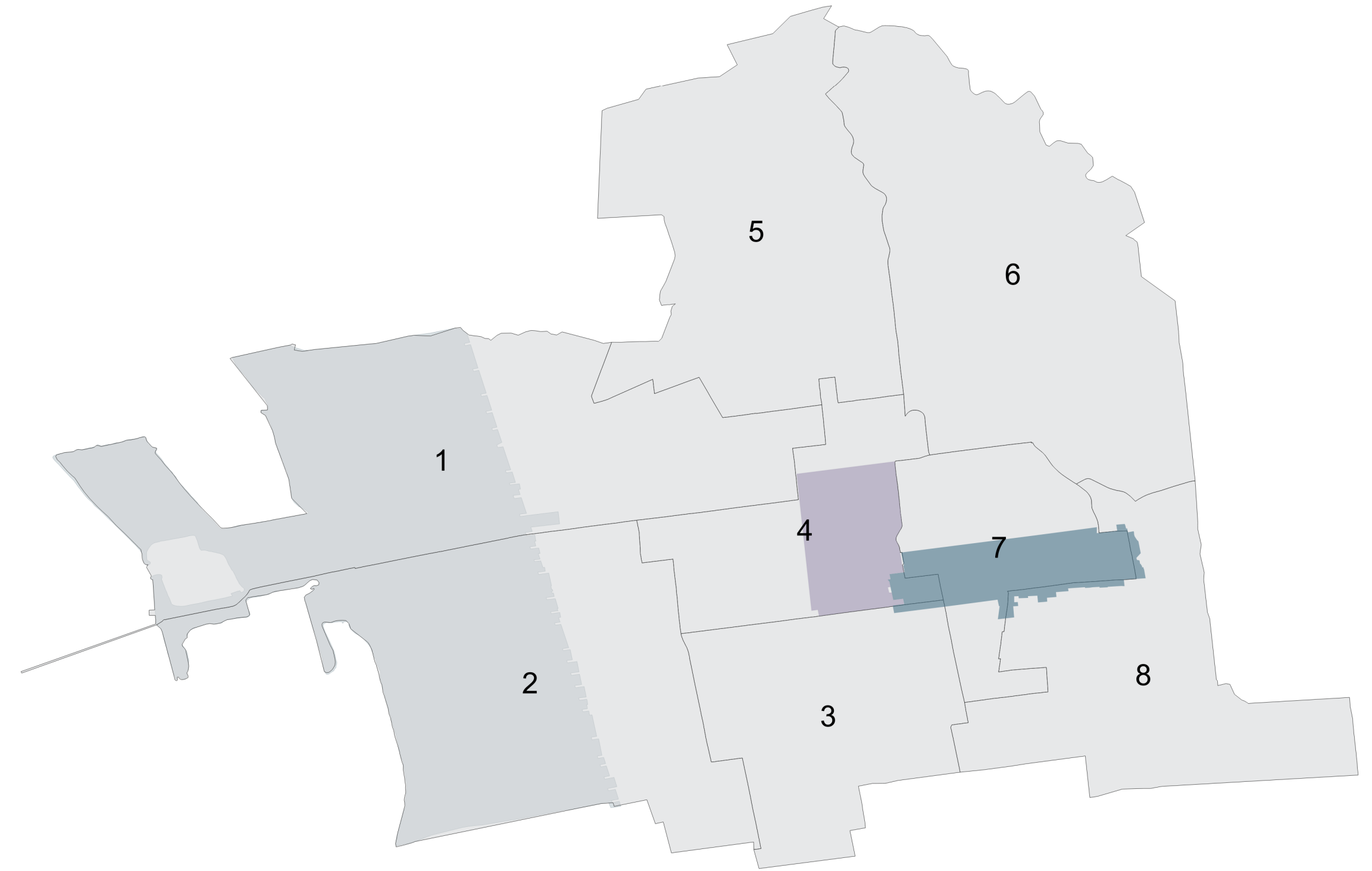
CASE STUDY FINDINGS

SOUTH OF CAMPUS AREA & DOWNTOWN BERKELEY

WEST BERKELEY

Upzoning does not automatically lead to greater equity

Increased density in Berkeley neighborhoods has not led to greater racial integration and opportunities for vulnerable communities.



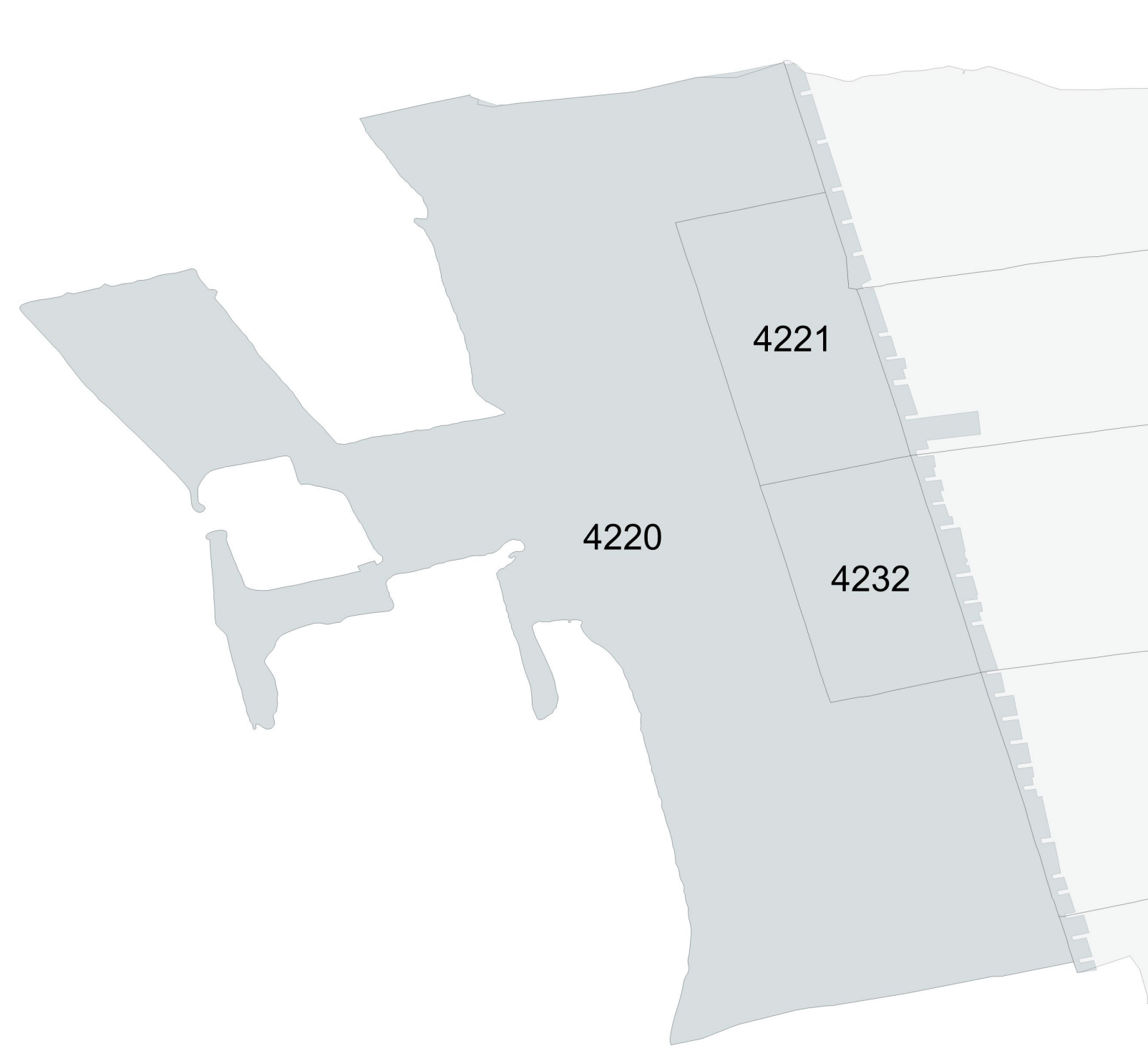
- Downtown Berkeley boundary
- South of UC campus area boundary
- West Berkeley area boundary

WEST BERKELEY:
Rezoned in 1998
Surge in development in the 2010s

SOUTH OF UC CAMPUS AREA:
Rezoned in 2011

DOWNTOWN BERKELEY AREA:
Rezoned in 2012

**Findings
indicate
patterns of
displacement
in West
Berkeley**



Marina/Industrial Area: tract 4220

- 27.3% increase in white residents
- 13.3% decrease in Black residents
- 104.4% increase in median income

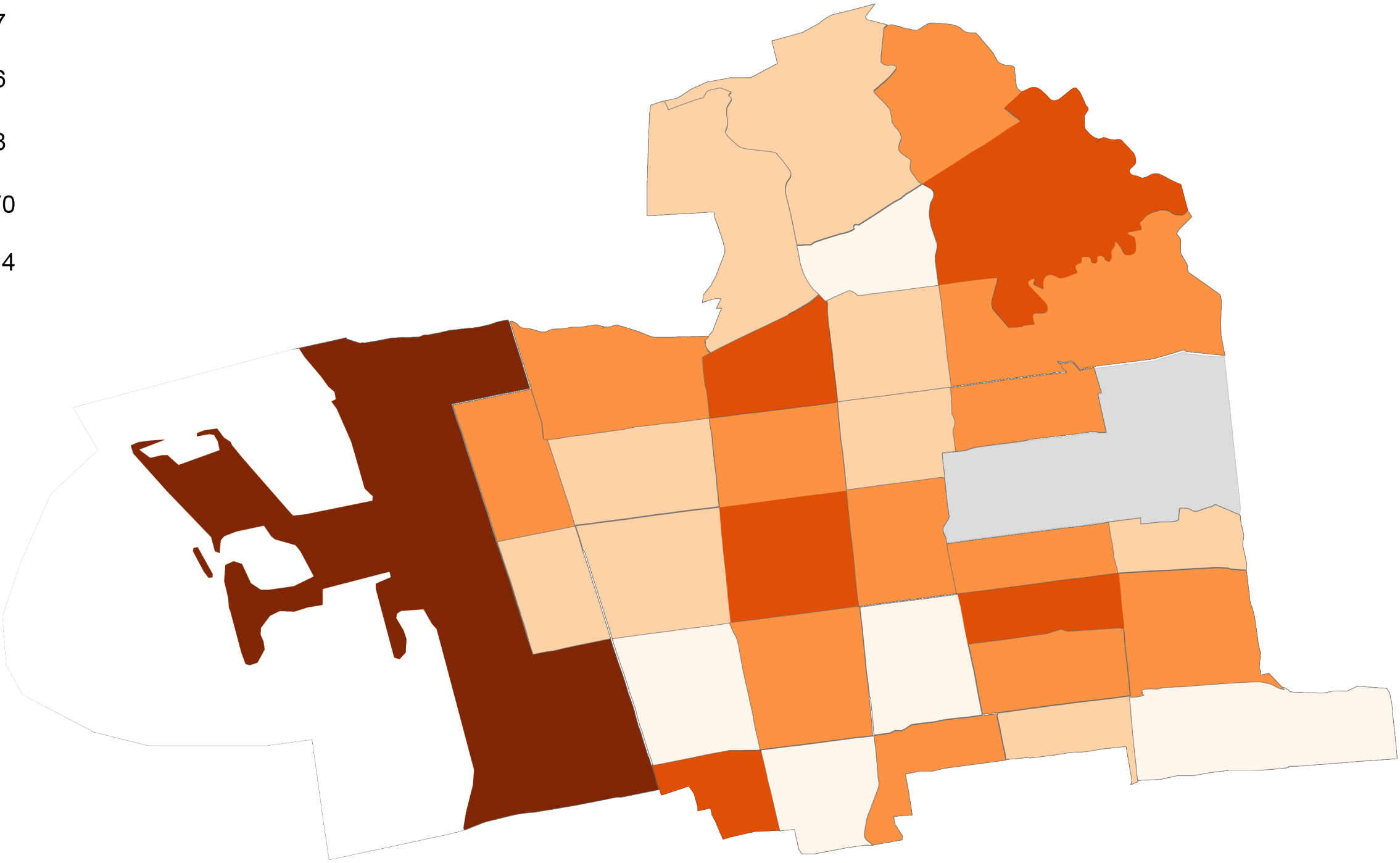
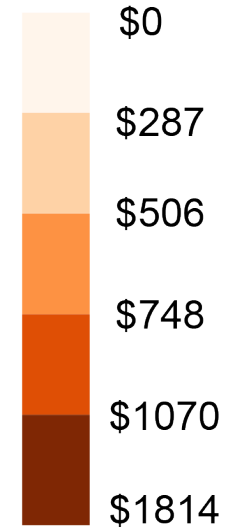
Northern Residential Area: tract 4221

- 19.9% decrease in Latinx residents
- 15.4% decrease in poverty

West Berkeley experienced dramatic increases in rent and in the population of white residents

Monthly Median Rent (utilities included)

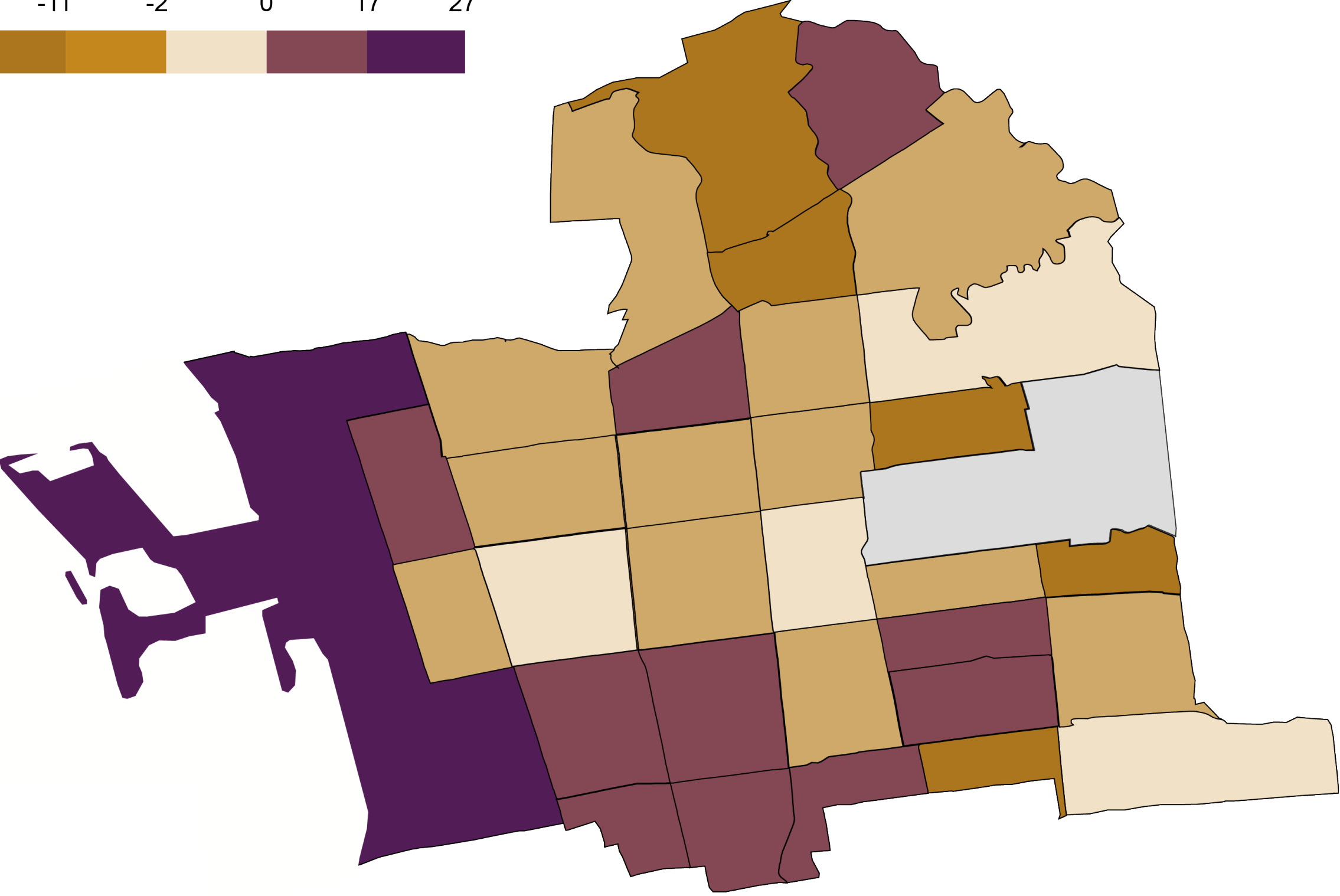
Change in median gross rent between 2005-2019 (in US dollars)



UC Berkeley

Change in White Population, 2005-2019

% change in white population, 2009-2019



Source: American Community Survey, 2019 5-yr estimate

POLICY RECOMMENDATIONS

Anti- displacement measures

Protect vulnerable areas – especially South Berkeley, West Berkeley – by directing future upzonings considered as a part of the city’s Housing Element Update to North and Southeast Berkeley, areas of ‘minimal’ or ‘low’ concern for displacement.

Consider a special district overlay to preserve and develop affordable housing in vulnerable areas.

Mandate a racial impact study ahead of all rezonings.

One-to-one replacements of protected units in cases of demolition, passing legislation to ensure the safety and habitability of housing during construction, and adopting a ‘right to return’ policy. Prioritize the production of rental units over condominiums, and addition to and subdivision of existing structures over demolition.

Tenant protections & affordable housing production

Increase protections + resources for low-income tenants such as rent relief for tenants struggling to pay rent and protection from ‘source of income’ discrimination.

Adopt Anti-Speculation Measures by encouraging community ownership of land through land trusts, housing cooperatives, and tenants’ opportunity to purchase the homes they live in. Disincentivize speculation by imposing transfer and vacancy taxes and enforcing laws regulating short-term rentals.

Increase the Production of Affordable Housing by adjusting the city’s affordable housing mitigation fee periodically to accurately calculate land value capture on new developments and to incentivize the production of affordable units.

THANK YOU & QUESTIONS



Densifying Berkeley: Potential Impacts on Displacement and Equity

A Report by the Anti-Eviction Mapping Project

Executive Summary

The Bay Area, like the rest of California, has a severe affordable housing shortage. The affordable housing crisis is often attributed to the prevalence of single-family zoning, an exclusionary policy rooted in a long history of racial segregation. Berkeley's move to end exclusionary zoning was touted as a racial equity measure that would increase the access of vulnerable populations to affordable and stable housing. The city is considering ways to upzone Berkeley as a part of its Housing Element Update to create missing middle housing, which is perceived to be more affordable than single-family homes. In this report, the Anti-Eviction Mapping Project (AEMP) asks whether upzoning can be deployed to equitably distribute housing to people who need it most without simultaneously increasing the risk of displacement in those communities. AEMP concludes that the city cannot rely solely on housing production, even when coupled with inclusionary policies such as requiring a certain number of below market rate apartments, to desegregate and provide much-needed housing to low-income communities. Strengthening tenant protections, disincentivizing speculation, and other anti-displacement measures must be key components of any efforts to densify the city.

The outcomes of upzoning depend on the particular nuances of upzoning policies as well as the unique contexts in which they are implemented. In this study, we couple the research and debates on upzoning in the state and beyond with a rigorous analysis of the impact of development on Berkeley communities as well as a model for projecting their risk to future displacement caused by zoning reform. We analyze data from the American Community Survey (ACS), Integrated Public Use Microdata Series (IPUMS), Alameda County Assessor's Office, and the Berkeley Rent Stabilization Board and City of Berkeley to understand the particular housing needs of Berkeley's communities and project their vulnerability to displacement. We also examine the impact of past development and zoning changes in three key Berkeley neighborhoods: Downtown Berkeley, the area immediately south of the UC Berkeley campus, and West Berkeley. Our recommendations look at how Berkeley can use zoning reform in combination with its strong tenant protections to distribute the benefits of upzoning more equitably, and to mitigate the risks of displacement and impacts of racial exclusion.

Key Findings:

- Upzoning can lead to speculation, increased land values, and displacement. By the same token, upzoning has not led to greater racial integration and opportunities for vulnerable communities.

Upzoning alone is unlikely to make housing affordable to those most in need in Berkeley and make Berkeley's housing market more equitable.

- Because filtering - does not appear to be creating significant numbers of units affordable to low-income residents, it is unlikely that the production of additional market-rate units will substantially increase the amount of housing available to those most in need.
- The private market is unable to produce sufficient levels of affordable housing even with subsidies and other incentives.
- Our model shows that the production of affordable housing lowers the risk of displacement, while the impact of market-rate housing is not statistically significant.
- The greatest deficit in Berkeley's housing supply lies at Low Income (50-80% AMI) and Very Low Income (<30-50% AMI or below) levels. These households are forced to occupy housing at much higher income levels.
- Current West Berkeley and South Berkeley residents are the most vulnerable to displacement by zoning changes; North Berkeley and Southeast Berkeley residents have minimal or low risk.

Key Recommendations:

- Protect Vulnerable Areas – South Berkeley, West Berkeley – from the impacts of upzoning by directing future upzonings considered as a part of the city's Housing Element Update to North and Southeast Berkeley, areas of 'minimal' or 'low' concern for displacement. Consider a special district overlay to preserve and develop affordable housing in vulnerable areas.
- Mandate a Racial Impact Study ahead of all rezonings.
- Adopt additional Anti-Displacement Measures by mandating one-to-one replacements of protected units in cases of demolition, passing legislation to ensure the safety and habitability of housing during construction, and adopting a 'right to return' policy. Prioritize the production of rental units over condominiums, and addition to and subdivision of existing structures over demolition.
- Increase protections and resources for low-income tenants, such as rent relief for tenants struggling to pay rent and protection from 'source of income' discrimination.
- Adopt Anti-Speculation Measures by encouraging community ownership of land through land trusts, housing cooperatives, and tenants' opportunity to purchase the homes they live in. Disincentivize speculation by imposing transfer and vacancy taxes and enforcing laws regulating short-term rentals.
- Increase the Production of Affordable Housing by adjusting the city's affordable housing mitigation fee periodically to accurately calculate land value capture on new developments and to incentivize the production of affordable units. The City should incentivize the production of affordable units through Costa-Hawkins 1954.52B by creating a process for homeowners and developers to regulate rent increases in exchange for waivers and bonuses. Berkeley should consider lowering the threshold for the AHMF to include all new residential development.
- Expand the Berkeley Rent Registry to capture rental costs for units partially covered by the Stabilization Ordinance to better track patterns of speculation and tenant turnover and to inform Berkeley's housing policies.



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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/83737919904?pwd=TlNmeTVrc0gvRFJ5ay9KQ1ZrVlg3Zz09>. 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: 837 3791 9904 and Passcode: 919836. 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 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 DéSeana Williams, Executive Director, at (510) 981-7368. The Rent Board may take action related to any subject listed on the Agenda.

RENT STABILIZATION BOARD
Regular Meeting
Thursday, February 17, 2022
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.
Commissioners present: Alpert, Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg
Commissioners absent: None
Staff present: Brown, Lecky, Mueller, Williams

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.

The Land Acknowledgement statement was read aloud.

3. **Approval of Agenda** – M/S/C (Alpert/Johnson) APPROVE THE AGENDA WITH THE FOLLOWING CHANGES: MOVE ITEM 8.b. TO CONSENT. 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.

4. **Public Comment** – *Non*-agendized items. There were two speakers: Carole Marasovic spoke about the eviction moratorium and the Source of Income Discrimination Ordinance. Krista Gulbransen spoke about the new notification paperwork for the Fair Chance Ordinance.

5. **SPECIAL PRESENTATION**: “What Does Housing Have To Do With Race?” by Wilhelmenia Wilson, Executive Director, Healthy Black Families, Inc. – Ms. Wilson

presented to the Board.

6. CONSENT ITEMS

Item 8.b. was moved to consent by a prior vote of the Board.

- a. Approval of January 20, 2022 regular meeting minutes

M/S/C (Johnson/Chang) APPROVE ITEMS 6.a. AND 8.b. 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.

7. **Public Comment** – Items on the agenda. There were no speakers.

8. ACTION ITEMS

from Board Members, Committees, Executive Director or Staff

Item 8.b. was moved to Consent by a prior vote of the Board.

- a. Special Presentation on state housing legislation by Brian Augusta & Associates, Legislative Advocates – Mr. Augusta presented to and took questions from the Board.

(1) Discussion and possible action regarding the Board taking a position on state housing legislation (Chair Simon-Weisberg) – NO ACTION TAKEN.

- b. Proposal to approve staff recommendations on the following requests for waivers of late registration penalties (Executive Director/Registration Unit staff)

Ministerial Waivers

Waiver No. Property Address

N/A	1433 Walnut St.
N/A	2610 College Ave.
N/A	1611 Scenic Ave.
N/A	2404 Cedar St.
N/A	1235 Talbot Ave.

Discretionary Waivers

Waiver No. Property Address

5019	1931 Fairview St.
5020	2235 Rose St.

MOVED TO CONSENT BY A PRIOR VOTE OF THE BOARD.

9. APPEAL – 8:00 p.m.**

***This appeal will not be heard before 8:00 p.m. but may be heard any time thereafter.*

Case No. T-5924 (2226 Durant Avenue, #104)

Tenant appeals a hearing decision ordering the landlord to refund a total of \$1,551.50 to tenant for security deposit return. On appeal, the tenant argues that the landlord has repeatedly lied and misrepresented the extent to which he made repairs in the subject unit and that the apartment was uninhabitable for the entirety of his very brief tenancy. He further claims that the hearing examiner did not give enough weight to his evidence and too much to the landlord's given the landlord's alleged deceit. He does not state explicitly in his appeal what remedy he seeks, but it can be presumed that he is requesting that the entirety of what he paid to the landlord (\$3,625) be returned to him. A review of the record and analysis of relevant board precedent and case law, however, establishes that the hearing examiner correctly ruled on the issue of return of the security deposit. For this reason, legal staff recommends that the Board affirm the hearing examiner's decision.

M/S/C (Alpert/Laverde) MOTION TO UPHOLD THE HEARING EXAMINER'S DECISION. Roll call vote. YES: Alpert, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: Chang; ABSENT: None.
Carried: 8-0-1-0.

10. INFORMATION, ANNOUNCEMENTS AND ARTICLES/MEDIA
from Board Members, Committees, Executive Director or Staff

**ALL ITEMS BELOW WERE BRIEFLY MENTIONED OR DISCUSSED.
UNDERLINED ITEMS HAVE ADDITIONAL COMMENTS.**

- a. Update on restoring Commissioners' access to their Rent Board email accounts – *Verbal* (Chair Simon-Weisberg/Board Secretary)
- b. Update on the City's Website Reinvention Project timeline and the Rent Board's content migration – *Verbal* (Executive Director/Board Secretary)
- c. *Monument to Extraction.org* article by Kimberly Pack and Roalla Toy titled, "Codornices Village – Segregation and integration in World War II worker housing" (Chair Simon-Weisberg)
<https://monumenttoextraction.org/stories/worldwar2-housing/>
- d. Date to submit agenda topics/items for the March 17th Rent Board meeting: **Monday, March 7th at 5:00 p.m.** NOTE: This is a hard deadline and will be enforced going forward.

11. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget and Personnel Committee (Commissioner Selawsky, Chair) – Commissioner Chang was elected Committee chair at the last meeting. He asked that commissioners send him any items they would like to have considered in the budget process. Next regularly-scheduled meeting: Tuesday, February 15th at 5:30 p.m.

February 15th agenda

- b. Eviction/Section 8/Foreclosure Committee (Commissioner Mendonca, Chair)
Next regularly-scheduled meeting: TBA
- c. Legislation, IRA/AGA & Registration Committee (LIRA Committee) (Commissioner Kelley, Chair) – Committee Chair Kelley mentioned that the Committee discussed the keyless entry issue and will refer it to the 4 x 4 Committee.
Next regularly-scheduled meeting: Wednesday, March 9th at 5:00 p.m.

February 9th agenda

- d. Outreach Committee (Commissioner Laverde, Chair) – Committee Chair Laverde reported that the tenant survey RFP was submitted.
Next regularly-scheduled meeting: Wednesday, February 16th at 5:00 p.m.

February 16th agenda

- e. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District (Chair TBA)
Regularly-scheduled meeting date: TBA
- f. 4 x 4 Joint Committee on Housing: City Council/Rent Board
(Mayor Arreguín and Chair Simon-Weisberg, Committee Co-Chairs)
Next regularly-scheduled meeting: Wednesday, February 23rd at 3:00 p.m.
- g. Ad Hoc Committee on Rent Board Technology Issues (Commissioner Selawsky, Chair) – The Board Secretary reported that the Committee is waiting for pricing information in order to draft a recommendation for the full Board.
Next meeting date: TBA

January 24th agenda

- h. Updates and Announcements
- i. Discussion of items for possible placement on future agenda

(1) Review of protocol and template for submittal of agenda items

12. **ADJOURNMENT** – M/S/C (Johnson/Laverde) MOTION TO ADJOURN. 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 adjourned at 9:28 p.m.



Rent Stabilization Board
Office of the Executive Director

DATE: March 17, 2022

TO: Honorable Members of the Berkeley Rent Stabilization Board

FROM: Honorable Members of the Budget & Personnel Committee
By: DéSeana Williams, Executive Director
Lief Bursell, Senior Planner

SUBJECT: Mid-Fiscal Year 2021-2022 Budget Report

Recommendation

That the Board review the mid-fiscal year budget report and adopt Resolution 22-03 to adjust the agency's staffing model by converting the vacant Deputy Director position to a new Policy Director position, which will serve as the lead staff person for the Board's policy projects and initiatives.

Background

On June 17, 2021, the Board adopted a staffing model and budget with a maximum expenditure authorization for Fiscal Year (FY) 2021/22. Prior to adopting the budget, the Board voted to keep the annual registration fee for fully-covered units at \$250 per unit and to set the Measure MM unit fee at \$150 per unit¹. Due to the ongoing impacts of the COVID-19 pandemic on the rental market, the Board chose to maintain the fully-covered unit fee at \$250 per unit, which has remained at that level since FY 2018/19 and to utilize its uncommitted reserve to pay for any expenses that were not covered by FY 2021/22 revenue. The Board also set a lower Measure MM registration fee of \$37 per unit for 100% affordable housing projects that are managed by a non-profit and are within the regulatory period established by a regulatory agreement with the City of Berkeley through its Housing Trust Fund program.

The Board's adopted budget anticipated spending down the uncommitted reserve by around \$550,000 this fiscal year. The Board has maintained a larger than expected uncommitted reserve balance over the past several fiscal years primarily due to staff turnover and unexpected vacancies in several previously-budgeted positions. This reserve has given the Board the

¹ The Measure MM fee included a base fee of \$100 per unit to cover the FY 2021/22 costs, and an additional \$50 fee to recover FY 2020/21 implementation costs. Similarly, the \$37 per unit affordable housing project fee includes a \$25 base fee and an additional \$12 to recover FY 2020/21 costs.

flexibility to avoid fee increases while still funding important projects such as the upcoming tenant survey and the Anti-Eviction Mapping Project's (AEMP) upzoning impact analysis. The Board's established reserve policy is to maintain an uncommitted reserve that covers all expenditures for between one and two months or 8%-16% of recurring expenditures. Although the Board has previously chosen to go below this 8% reserve level to limit the extent of fee increases, it has maintained a two-month or 16% reserve in recent years. The year's adopted budget anticipated ending this fiscal year with approximately \$332,000 in its uncommitted reserve, which is approximately 6% of recurring expenditures. The Board determined that decreasing the reserve below its minimum 8% level was an acceptable trade-off to avoid increasing the fully-covered fee that applies to between 19,000 and 20,000 units at a time when the economy and rental housing market are still impacted by the COVID-19 pandemic and both local and statewide eviction moratoriums.

The Board also voted to incorporate a formal mid-fiscal year budget review as a permanent part of the Board's annual budget process. The Board utilized a mid-fiscal year budget review process for the first time last fiscal year and it successfully allowed the Board to pivot to respond to the passage of Measure MM and hire an additional Housing Counselor position. This additional counseling position has helped to respond to inquiries related to the Measure MM implementation, as well as the increased services the agency is providing to Measure MM units.

FY 2020/21 Year-End Fund Balance

The staff has reviewed the final reports from the Finance Department on the Board's FY 2020/21 revenues and expenditures. The Board's year-end FY 2020/21 revenue was \$4,998,516 and total expenditures were \$5,059,050. \$52,083 in expenditures owed for services provided in FY 2020/21 was carried over to FY 2021/22 – this is not surprising as the last invoices of the year for work completed in June are often not submitted in time to process payment until July or August and, therefore, these expenditures must be accounted for in the following fiscal year. For this reason, the Board's year-end fund balance is higher on a cash basis than an accrual basis, which accounts for expenses that were incurred even if they are yet paid for.

The Board's total FY 2020/21 year-end fund balance was \$1,435,979 (on an accrual basis). The Board's capital reserve ended the year at \$495,500, which left its uncommitted reserve at \$940,479. This is 16.7% of projected recurring expenditures. Please note that these numbers are still preliminary because they have not yet been audited. The City of Berkeley contracts with an outside auditor to review its financial statements, and an audit of the Board's FY 2020/21 financial statements should be ready to review sometime in March or April of 2022.

As discussed in the FY 2021/22 budget recommendation, the outside auditor's report will show that the Rent Board's FY 2020/21 revenue is \$328,327 lower than the numbers that were provided to the Board and are being discussed here. This is due to a malfunction in the agency's online payment system that resulted in \$328,327 in FY 2020/21 revenue being deposited as FY 2019/20 revenue. For budgetary purposes, it is more accurate to count this revenue in FY 2020/21, even though it is accounted for elsewhere in the Board's audited financial statements.

Fiscal Year 2021-2022 Revenue Collection

The Board's adopted budget anticipated the agency collecting \$5,515,850 in revenue for the current fiscal year. As of December 31, 2021, the agency has collected \$5,434,941, well on pace to reach or exceed the amount. At the mid-fiscal year point, 298 delinquent fully-covered unit accounts owed a total of \$176,000 in current year fees. Overall, collection for fully-covered units is slightly lower than last year as the number of delinquent accounts is higher and owes about \$75,000 more than at the midpoint of last year.

When the Board adopted its FY 2021/22 budget, the main area of uncertainty was the rate of compliance and the overall total number of Measure MM units that would register during the initial registration year for Measure MM units. The Board chose a conservative estimate of 50% compliance rate for the initial year and the adopted budget only anticipated \$300,000 (\$350,000 including late registration penalties) in revenue. Actual Measure MM revenue at mid-year is \$616,724, with a total of 4,570 units registering, including 598 units paying the lower \$37 per unit, affordable housing fee. As of the mid-year, 270 outstanding Measure MM accounts owe just over \$125,000 in current year registration fees. Recently, staff sent out a second round of penalty bills to both Measure MM and fully-covered properties.² Overall there are approximately \$300,000 in unpaid registration fees³ and the number of delinquent accounts is higher than normal, which is not unexpected given the COVID-19 impacts and the addition of the new Measure MM registration requirements.

At the request of the Budget & Personnel Committee, the attached mid-fiscal year budget update spreadsheet identifies in separate rows what revenue comes from Measure MM registration fees and what revenue comes from fully-covered unit registration fees.

Administration of the Fair Chance Ordinance

On December 14, 2020, the Board agreed in principle to administer the recently-passed Ronald V. Dellums Fair Chance Access to Housing Ordinance (B.M.C. Chapter 13.106) on behalf of the City after receiving a letter from Mayor Arreguín requesting that the agency do so "subject to the negotiation of an agreement between the City administration and the Board regarding the specific roles and responsibilities in ordinance implementation".

Staff submitted a proposed budget that estimated \$10,350 in startup costs and \$105,500 in ongoing personal costs to administer the Ordinance. As part of their FY 2021/22 adopted budget, the City Council agreed to transfer \$115,850 in funds from the City of Berkeley general fund and that the Board staff would bill them only the actual costs to run the program.

² The Board adopted Resolution 21-19 on July 15, 2022, which created an amnesty period to allow property owners the opportunity to pay the Board's Registration Fee for FY 2020/2021 without penalty. Resolution 21-19 gives a 90-day amnesty to owners of fully-covered units if they were financially impacted by COVID-19; and a 120-day amnesty for Measure MM units without consideration of COVID-19 financial hardship.

³ There are also nearly one million dollars in penalty fees still outstanding between fully-covered and partially covered units.

The agency has set up Fair Chance Ordinance and is now actively administering it, but other than some limited counseling on the Ordinance, the administration has taken far fewer resources than initially anticipated. As of December 31, 2021, the agency has not yet billed the City's general fund related to the Fair Chance Ordinance and does not anticipate billing for a significant amount unless there are active cases that arise and require full evidentiary hearings. Year-end 2021/22 revenue projections have been reduced by \$100,000 to reflect the anticipated reduction in compensation for administering the Fair Chance Ordinance.

Fiscal Year 2021-2022 Mid-Year Expenditures & Updated Projections

As of December 31, 2021, the Board has expended a total of \$2,312,414. Actual mid-year expenditures are significantly less than what was anticipated in the Board's adopted budget due to salary savings and because the bulk of capital expenditures, mostly for the 3Di Rent Tracking System (RTS) replacement, will take place in the 3rd and 4th quarter. Salary expenditures were down in the 1st half of the year due to the turnover of five positions and the vacant Deputy Director position. Staff now project that total FY 2021/22 expenditures will be around \$550,000 less than what the Board authorized in the adopted budget.

A preliminary mid-year budget update is attached to this report and provides details on actual expenditures by budget line-item. The staff has also updated the projected year-end projections with updated projections on personnel expenditures, accounted for any changes or additions to the Board's contracts with outside vendors, and reduced spending from the Board's capital reserve.

As discussed earlier in this report, the actual year-end numbers for FY 2020/21 are not yet final and are pending final review by the City of Berkeley's contracted outside auditor.

Current Agency Priorities

The Rent Board's adopted FY 2022 Budget continues to prioritize the Rent Board's five core services⁴ or areas of work, which are:

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

In addition to the agency's ongoing "core" work, the Board's adopted budget included the following priority projects and initiatives (current status in parenthesis):

⁴ 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.

- Complete the initial registration of Measure MM units. (Mostly complete)
- Provide increased service to Measure MM units. (Ongoing – there have been 9 mediation requests and just under 200 counseling cases involving Measure MM units)
- Prepare and execute a phased office reopening and begin to provide more in-person services to clients. (In progress)
- Provide outreach and assistance to tenants and landlords on laws and requirements for evictions as state and local eviction moratoriums come to an end. (*In progress*)
- Fully transition from the agency’s existing RTS Database to the agency’s new integrated software platform being developed by 3Di. (*In progress*)
- Recruit, select, hire and train a new permanent Executive Director. (**Complete**)
- Create and hire a new General Counsel position that reports directly to the Board. (**Complete**)
- Implement and administrate the City’s Fair Chance Housing Ordinance. (**Complete**)
- Complete a survey of tenants and begin scoping a study/survey of property owners. (*In progress*)
- Use the 2nd and 4th Wednesdays to work on agency-wide improvement areas identified in the executive transition survey. (Ongoing)
- Continue work to improve the Demolition Ordinance to reach the appropriate balance of allowing new construction, while protecting sitting tenants and mitigating the overall loss of housing affordability. (*In progress*)
- Work with the City of Berkeley to revamp and improve the Relocation Ordinance. (In progress)
- Monitor development projects including the creation of new ADUs that impact the tenancies or services to existing tenants. (Ongoing)
- Continue to monitor Short-Term Rental Ordinance compliance to prevent the loss of long-term rentals. (Ongoing)
- Continue studying and memorializing the impacts of Costa-Hawkins on Berkeley and other cities in the state. (Ongoing)
- Implement a two-phase project to recreate all Rent Board web content (including PDFs) and transfer to the new website CMS, and expand integration with the City’s public records portal. Implementing and administratively improving the launch of the 3Di platform to effectively capture and report Measure MM unit registration. (*In progress*)
- Developing the 3Di platform to replace the existing Rent Tracking System (RTS) and case management system. (*In progress*)
- Implement redesign of a new agency website. (**Nearly complete**, new website scheduled to launch in March of 2022)
- Providing input to the Planning Department and HHCS Department on planned revisions to Berkeley’s Demolition Ordinance and Relocation Ordinance. (*In progress*)
- Continue working with local and regional groups to develop a coordinated and effective response to the housing crisis. (Ongoing)

- Work with the City of Berkeley IT Department to enhance agency cyber security.
(Ongoing)

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

- Select a vendor to complete the scanning of all property files and other agency files.
- Provide enhanced training for staff and Board members
- Recruit, select, hire and train a new permanent Executive Director.
- Providing input to the 4x4 Committee and City Council on implementation of the Fair Chance and “TOPA” Ordinance.
- Working with City Council to assist with the adoption of the Tenant Opportunity to Purchase Act (TOPA).

As the agency continues with the launch and implementation of its two priority projects, the Measure MM implementation and the RTS and case management replacement project, these are large, time-intensive projects that impact staff in all the work units. Additionally, the administratively heavy involvement of staff in the City of Berkeley’s website overhaul has further stretched staff resources. These larger, agency-wide projects are particularly administratively intense 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 continuing to work on the data migration and transition of RTS and case management, as well as the launch of the registration for fully-covered units in 3Di.

The launch and data migration phase of the 3Di system transition 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 full data migration and complete module launch have been completed.

It is important to note that the initiatives/projects listed above do not impact all work units equally. For example, the increased volume of client contacts directly related to Measure MM and the data migration with 3Di has impacted mainly the Registration Unit and the Public Information Unit. The city of Berkeley’s website overhaul project has deeply impacted the Administrative and Planning 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 25.0 Full-time Equivalent (FTE) career positions. Thus far in FY 2022, the agency has successfully recruited and hired a permanent Executive Director,

as well as added and hired for the new General Counsel position. Additionally, the former temporary position of Associate Planner has been made permanent and the staff person who filled the temporary position has been appointed to the permanent position.

After the recent hiring of a new PIU Manager, there are currently three (3) vacant positions within the agency. All vacancies are indicated in the adopted organizational chart attached to this report. Two of our permanent staff members are also on temporary leave but are expected to return sometime within the next six months.

Filling Vacancies

The three current vacancies are the Deputy Director position, a Senior Management Analyst that serves as the Registration Unit manager, and a Staff Attorney II position. Staff estimate that a new Registration Unit manager will be hired as soon as April, and the Staff Attorney II position will be filled sometime within the 2nd Quarter of 2022.

The FY 2021 mid-fiscal year report stated that the agency has adapted to operating without a Deputy Director has not had an active staff person in that role for several years. After reviewing the agency's needs and the Board's desire for a senior staff person to work on housing policy issues, staff recommends the Board remove the Deputy Director position from the staffing model and create and hire a new Policy Director position.

Part of the justification for creating the Deputy Director position was to hire and train a successor to the agency's previous Executive Director. Now that a new Executive Director is in place, succession planning is no longer a priority. The only benefit to having a Deputy Director is that this position serves as the backup to the Executive Director in case of emergency, vacation, or extended absence. Now that the agency's new General Counsel position has been filled by its former Acting Executive Director, there is an experienced senior staff person that reports directly to the Board and can back up the Executive Director when necessary.

The Board's adopted budget states that the Board is interested in pursuing a candidate to increase capacity to provide direction regarding several policy initiatives the Board is interested in adopting. Most of the policy issues the Board has raised recently are in the areas of housing and land use planning. A Deputy Director is an operations-focused position, and these policy areas require a staff person with a background and education in those areas. The proposed Policy Director would be created with the specific policy areas the Board is focusing on in mind.

The conversion of the vacant Deputy Director position is the only change staff is proposing to the staffing model at present, but there are several additional changes that staff recommends the Board consider implementing in FY 2022/23.

Future Staffing Model Changes

Given the imperative to increase capacity to further broaden how we provide service both internally and externally, there is a need to separate internal functions within certain units and introduce more focused functions in others. To achieve this, the staff is recommending the Board consider the creation of a total of three new positions in the next fiscal year. These positions are a Finance Manager, Senior Housing Counselor, and a Digital Education and Social Media Coordinator.

Finance Manager

Currently, payroll, finance, and budgetary functions are splintered between several work units. The Finance Manager would take over supervision of these tasks. In addition, the Finance Manager will be the first step to creating a finance unit that will also be responsible for contracting and purchasing activities. The Rent Board's current staffing model and organizational structure have limited capacity to handle these functions efficiently. An independent and financially-focused unit will allow for increased resources in other units that are currently handling these functions, offer more streamlined processes, and provide a centralized unit to be accountable for these functions which will further stabilize the organization and benefit overall productivity.

Senior Housing Counselor

There is a need to create a higher-level counselor position in the Public Information Unit (PIU). PIU staff are essential for the provision of core Rent Board services including education, counseling, and conducting community outreach. The PIU housing counselors must possess a niche, in-depth knowledge, and understanding of the Ordinance, state and local laws, and the intersections of multiple community agencies and resources related to rental housing. A Senior Housing Counselor would provide an additional and necessary layer to the unit where responsibility will be dedicated to highly specialized cases, research, and special projects. Moreover, adding this layer will allow the current housing counselors to continue to improve response times and increase regular counseling availability to consistently provide nuanced and detailed assistance with our clients' unique housing situations.

Digital Education and Social Media Coordinator

For years, the Board has expressed an interest in increasing the agency's social media presence and adapting our outreach program to include popular applications such as Twitter and LinkedIn. Additionally, as the Rent Board aligns with the City of Berkeley's new website platform, there will be an increased need to centralize the management of our print, web, and digital outreach to ensure clear, consistent, and accurate messaging. The Digital Education and Social Media Coordinator will also take on the responsibility to increase our digital education presence that

will update the community more broadly on important affordable housing matters, legislation, and resources that not only inform but benefit those we serve.

Budget & Personnel Committee Recommendation

Having reviewed a similar report and hearing staff's presentation, on March 8, 2022, the Budget & Personnel Committee unanimously recommended that the full Board authorize a staffing model adjustment to convert the vacant Deputy Director position to a new Policy Director position. If the Board adopts this change, staff will take the appropriate steps to work with the Human Resource Department to create and then advertise for the position.

The Budget & Personnel Committee will continue to discuss the other positions mentioned in this report at future meetings before bringing any additional recommendations to the Board.

Next Steps

After reviewing the mid-fiscal year budget report and making changes to the current staffing model, the Board also needs to provide input on additional programs or initiatives they would like considered for inclusion in the FY 2022/23 budget. Starting at their March 29, 2022 meeting, the Budget & Personnel Committee will review the initial budget projections for the next fiscal year and then begin working on a recommendation for the setting of the FY 2022/23 registration fee. The Board should anticipate considering the registration fee recommendation at either its regular meeting on April 21, 2022 or at a special meeting during the first week of May. If there are no new major increases proposed to the agency's expenditures, the Board may be able to again avoid any significant increase to next year's registration fees.

Conclusion

Staff has prepared Resolution 22-03, which the Board must adopt to convert the vacant Deputy Director Position to a new Policy Manager position. Staff awaits the Board's direction on the Budget & Personnel Committee's recommendation, as well as its feedback on the other potential future changes to the staffing model that are identified in this report.

Attachments:

1. Mid-Fiscal Year Budget Update Spreadsheet
2. Adopted Fiscal Year 2021/2022 Staffing Model & Organization Chart
3. Proposed Resolution 22-03 Adjusting Staffing Model to Convert the Vacant Deputy Director Position to a New Policy Director Position.

Rent Stabilization Program
FUND 440
Preliminary FY 2021 Year-End & FY 2022 Mid-Year Budget Update

Code	Description	Adopted FY 2021	Actual Year-End FY 2021	Adopted FY 2022	Mid-Year FY 2022	Projected FY 2022
11-01	Monthly Employees	2,482,000	2,325,298	2,850,000	1,108,336	2,500,000
11-03	Hourly Employees	0	0	0	0	0
13-01	Overtime	5,000	477	2,000	177	1,000
27-20	Benefits	1,620,000	1,550,686	1,800,000	672,318	1,600,000
30-12	Stipends	53,500	51,800	53,500	26,900	53,500
30-23	Misc. Legal Expenses	360,000	225,683	20,000	8,485	65,000
30-36	Temp. Agency Employees	0	801	5,000	11,013	25,000
30-38	Misc. Professional Services	410,000	336,739	410,000	192,636	586,241
30-42	Office Equip. Mtc. Svcs. / Furniture	13,000	6,796	13,000	5,044	13,000
30-43	Bldg. & Structures Mtc. Svc.	400	392	500	202	500
30-51	Bank Credit Card Charges	25,000	7,615	25,000	10,020	25,000
40-10	Professional Dues & Intern Fees	3,000	2,060	3,000	139	3,000
40-31	Telephones	5,000	7,292	5,000	3,696	5,000
40-50	Printing and Binding	25,000	24,798	35,000	12,180	35,000
40-62	Meals & Lodging	1,000	0	1,000	0	1,000
40-63	Registration Fees/Training	12,000	0	12,000	1,393	12,000
40-61/64	Transportation & Commercial Travel	5,000	12	3,000	51	3,000
40-70	Advertising/public access	30,000	33,720	45,000	23,016	45,000
40-80	Books & Publications	13,000	13,207	13,000	6,571	13,000
50-10	Rental of Land / Buildings	355,000	336,232	375,000	171,468	375,000
51-10	Postage	25,000	26,798	40,000	3,703	30,000
51-20	Messenger / Delivery	500	0	500	0	500
55-11	Office Supplies	15,000	12,346	13,500	5,689	13,500
55-50	Food and Water	2,000	704	1,000	459	1,000
70-43	Office Equipment and Furniture	5,000	0	5,000	0	5,000
70-44	Computers, Printers, Software	10,000	2,767	12,000	606	12,000
75-25	PC Replacement/City Software Licences	50,709	50,709	74,305	37,152	74,305
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**	5,531,209	5,022,031	5,822,405	2,303,054	5,502,646
	Special Projects (RTS Upgrade, online registration, training)	565,000	37,019	453,130	9,360	290,900
	Annual Capital Reserve	0	0	0	0	0
	Total Authorized Fund Expenditures*	6,096,209	5,059,050	6,275,535	2,312,414	5,793,546
	Fully-covered Unit Revenue			5,000,000	4,816,700	4,920,000
	Measure MM Revenue			350,000	616,724	650,000
	Fair Chance Ord. Administration			115,850	0	0
	Misc. (Project review, Settlements, Admin. Fees)			50,000	1,517	3,000
	Total Authorized Fund Revenue*	4,850,000	4,998,516	5,515,850	5,434,941	5,573,000
	Annual Surplus/Shortfall	(1,246,209)	(60,534)	(759,685)	3,122,527	(220,546)
	Previous FY Carryover Expenditures				52,083	52,083
	FUND BALANCE (cash basis)	289,938	1,488,035	728,350	3,850,877	1,267,489
	FUND BALANCE (accrual basis)	289,938	1,435,979	676,294	3,798,821	1,267,516
	TOTAL UNCOMMITTED OPERATIONAL FUND BALANCE	254,938	940,479	399,294	3,763,821	907,316

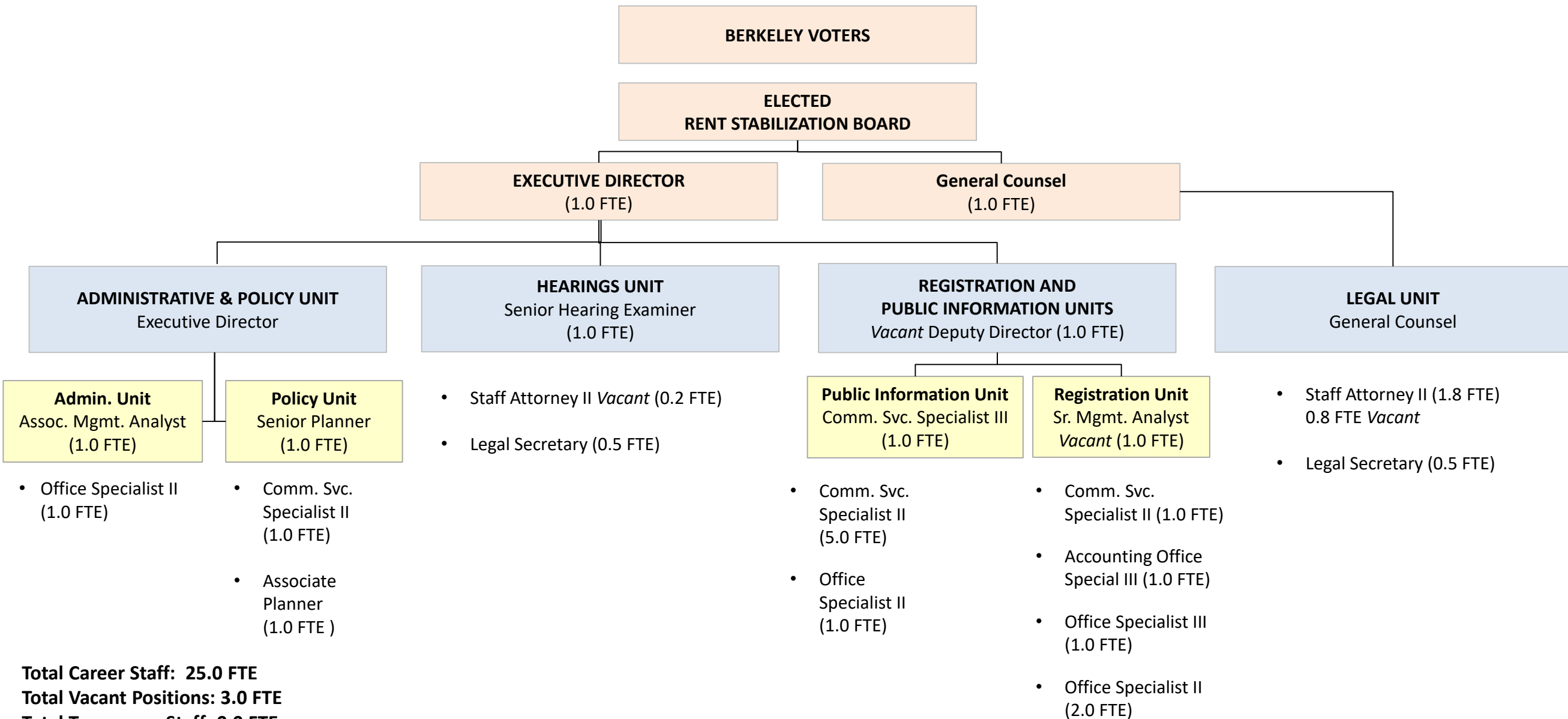
* Note: this report only reflects charges & revenues against the Rent Board Fund (Fund 440) and does not include services charged to or received from other funds

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

Adopted Berkeley Rent Stabilization Program 2021/22 Organization Chart

Career and Temporary Positions FY 2021/22

Sorted by Division Supervision



RESOLUTION 22-03

ADJUSTING THE FISCAL YEAR 2021-2022 STAFFING MODEL POSITION DETAIL TO CONVERT THE VACANT DEPUTY DIRECTOR POSITION TO A NEW POLICY DIRECTOR POSITION

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

WHEREAS, the Rent Stabilization Board operates based on 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, the Budget and Personnel Committee met twelve times in the fiscal year 2020-21 to monitor the budget and the Program's progress meeting the goals established by the Board; and

WHEREAS, the Board completed a formal, mid-fiscal year budget review for the first time on February 18, 2021, and added a new Housing Counselor position to respond to the increased demand for services resulting from the passage of Measure MM; and

WHEREAS, on May 6, 2021, 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 for full-covered units at \$250 per unit and to set the Measure MM fee at \$150 per unit; and,

WHEREAS, on June 1, 2021, the Budget and Personnel Committee and the Acting Executive Director met and discussed a line-item operating budget and staffing model for FY 2022 for the Board's review and consideration; and,

WHEREAS, on June 17, 2021, the Board adopted Resolution 21-13, authorizing the Fiscal Year 2021-2022 staffing model and maximum expenditure level; and the proposed operating budget (including contracts) for FY 2021-2022 authorizes new expenditures totaling \$6,275,535, which includes both recurring operational and capital needs; and

RESOLUTION 22-03

ADJUSTING THE FISCAL YEAR 2021-2022 STAFFING MODEL POSITION DETAIL TO CONVERT THE VACANT DEPUTY DIRECTOR POSITION TO A NEW POLICY DIRECTOR POSITION (Page 2)

WHEREAS, with the adoption of Resolution 21-13, the Board also added a formal, mid-fiscal year review as a permanent part of its budget process going forward, to assess revenues, reserves, and the need for staffing model and/or programmatic changes; and

WHEREAS, after performing the mid-fiscal year budget review in February and March of 2022 and examining the current workload and filled positions along with the goals and objectives for FY 2021-2022 articulated by the Board, the Executive Director, and the Budget & Personnel Committee, the Board believes that it is necessary to convert the vacant Deputy Director Position to a new Policy Director Position; and

WHEREAS, the Deputy Director Position was initially created in 2010 to backup and assist the Executive Director with day to day operations; work on special projects, and as a succession planning tool to help identify and train a potential successor to the Board's previous Executive Director; and

WHEREAS, Board has recently hired a new Executive Director and created a new General Counsel position that reports directly to the Board and can back up the Executive Director when the need arises, and

WHEREAS, the Board has identified several policy initiatives, such as the need to study the continued impacts of Costa Hawkins, improving Berkeley's tenant Relocation Ordinance, and working with local and regional groups to develop a coordinated and effective response to the housing crisis; and

WHEREAS, the Deputy Director position is more operationally focused and the majority of the Board's identified policy initiatives require policy expertise, particularly in the areas of housing and land use planning; and

WHEREAS, the creation of a new Policy Director position that can lead the Board's policy initiatives will improve the agency's ability to accomplish the goals outlined in the Board's adopted budget.

RESOLUTION 22-03

ADJUSTING THE FISCAL YEAR 2021-2022 STAFFING MODEL POSITION DETAIL TO CONVERT THE VACANT DEPUTY DIRECTOR POSITION TO A NEW POLICY DIRECTOR POSITION (Page 3)

NOW, THEREFORE, BE IT RESOLVED that the Board directs staff to eliminate the vacant Deputy Director position and create a new permanent Policy Director position; and

BE IT FURTHER RESOLVED THAT this change to the staffing model will not cause the Board to exceed the overall spending level totaling \$6,275,535 it previously authorized for the Fiscal Year 2021-2022.

Dated: March 17, 2022

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

- YES:
- NO:
- ABSTAIN:
- ABSENT:

Leah Simon-Weisberg, Chairperson
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director



AB-2469 Housing: Statewide Rental Registry. (2021-2022)

As Amends the Law Today

SECTION 1. (a) *This act shall be known, and may be cited, as the Statewide Rental Registry.*

(b) *It is the intent of the Legislature in enacting this act to do all of the following:*

(1) *Build a database of rental units throughout the state of California to support housing development, renter protections, and effective implementation of applicable California housing laws.*

(2) *Prevent homelessness by providing access to data encompassing the full scope of rental units in the state.*

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

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

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

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

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

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

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

50467. (a) *For purposes of this section, "landlord" means a person or entity that hires dwelling units subject to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.*

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

(A) *Receive information from landlords, as described in subdivision (c), and then make available the information to the public.*

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

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

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

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

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

(iii) *The ownership type of each property and the year the owner acquired the property.*

(iv) The year in which the residential structure was originally constructed on the property.

(v) The number of bedrooms, bathrooms, kitchens, and occupancy status of each rental unit.

(vi) The month and year that the most current occupancy began for each rental unit.

(vii) The total number of months that each rental unit was rented during the previous calendar year and the number of months the unit was vacant.

(viii) The amount of payments collected for rent and utilities in the previous calendar year. This amount shall include the amount paid for utilities that is included in the rent.

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

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

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

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

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

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

(ii) The department shall aggregate information pertaining to terminations of tenancy and the reasons for termination. The department shall publish this information every five years. Publicly available data on terminations shall not include specific dates or years.

(c) (1) A landlord shall complete and submit, under penalty of perjury, a rental registry form for each property. Each landlord shall thereafter complete and submit a rental registry form for each property annually.

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

(d) For a city or county with an existing rental registry, the agency responsible for the registry shall ensure all information required to be collected pursuant to subdivision (b) is included in the registry and that the registry produces machine readable data.

SEC. 4. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

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



AB-2297 Tenancy: fee in lieu of a security deposit. (2021-2022)

As Amends the Law Today

SECTION 1. *Section 1950.5.1 is added to the Civil Code, to read:*

1950.5.1. *(a) As used in this section, "rental debt" means unpaid rent or any other unpaid financial obligation of a tenant under the tenancy.*

(b) A landlord who offers a tenant or prospective tenant the option of paying a fee in lieu of a security deposit shall do both of the following:

(1) (A) Offer the tenant or prospective tenant the option to instead pay a security deposit.

(B) A landlord shall not use a prospective tenant's choice to pay a fee in lieu of a security deposit or make a security deposit as a criterion in the determination of whether to approve an application for occupancy.

(2) Offer the option of paying a fee in lieu of a security deposit to every prospective tenant unless the landlord chooses to cease offering the option of paying a fee in lieu of a security deposit for every prospective tenant.

(c) A tenant who accepts an offer to pay a fee in lieu of a security deposit may terminate the agreement to pay the fee in lieu of a security deposit at any time and stop paying the fee if the tenant chooses to instead make a security deposit in the amount that the landlord offers to new tenants for substantially similar housing on the date the tenant chooses to make a security deposit instead of paying a fee in lieu of a security deposit.

(d) At the time a landlord offers to a tenant the option of paying a fee in lieu of a security deposit, the landlord shall notify the tenant in writing of all of the following:

(1) The tenant has the option to instead make a security deposit.

(2) The tenant has the option to terminate the agreement to pay the fee in lieu of a security deposit and instead make a security deposit pursuant to subdivision (b).

(3) The charges associated with each option described in paragraphs (1) and (2).

(e) An agreement to pay a fee in lieu of a security deposit shall be in writing, signed by the landlord or the landlord's legal representative and the tenant, and shall include all of the following items:

(1) The fee is being paid only to secure occupancy without a requirement of making a security deposit.

(2) The fee, unless otherwise specified, is not refundable.

(3) Payment of the fee, unless otherwise specified, does not eliminate, release, or otherwise limit the requirements of the lease, including that the tenant shall pay for all of the following:

(A) Rent as it becomes due.

(B) Damages for which the tenant is legally liable under the lease.

(C) Any other payment obligations pursuant to the lease.

(f) A fee in lieu of a security deposit shall be payable at the time, and in the same amount each time, that each rent payment is due during the lease.

(g) (1) A landlord who collects a fee in lieu of a security deposit pursuant to this section shall not submit a claim for damages or rental debt to a third party unless the landlord has given notice to the tenant of the claim for damages or rental debt no later than 30 days after the date the tenant surrendered possession of the dwelling.

(2) The notice described in paragraph (1) shall include a written description and itemized list of any damages and rental debt, including the dates that any rental debt payments were due.

(3) (A) If a tenant challenges a claim for damages or rental debt noticed pursuant to this subdivision, and that challenge results in a determination by the landlord or by a court that the notice contained incorrect information, the notice shall be deemed void for purposes of this subdivision, and the landlord shall not file a claim with a third party for the amounts of damages or rental debt that were successfully challenged.

(B) If a landlord has submitted a claim for damages or rental debt to a third party before the notice to the tenant was voided pursuant to this paragraph, the landlord shall withdraw the claim and return any payment from the third party.

(h) If a landlord who collects a fee in lieu of a security deposit pursuant to this section receives compensation from a third party for a tenant's damages or rental debt pursuant to a claim of which the tenant was given proper notice pursuant to subdivision (g), both of the following shall apply:

(1) The landlord shall not seek or collect reimbursement from the tenant for the amount of compensation received.

(2) (A) A third party, if otherwise authorized by contract, may seek, on or before the date that is one year from the termination of the tenant's occupancy, reimbursement from the tenant of only the amounts paid to the landlord plus reasonable administration costs, legal fees, and collection costs.

(B) A third party seeking reimbursement from the tenant pursuant to this paragraph shall include in the claim for reimbursement any evidence of damages or rental debt that the landlord submitted to the third party, any evidence of damage repair costs that the landlord submitted to the third party, and a copy of the settled claim that documents payments made by the third party to the landlord.

(C) In an action seeking reimbursement from the tenant commenced pursuant to this paragraph, a tenant shall be entitled to any defenses to payment against the third party as against the landlord.

(i) A fee in lieu of a security deposit offered pursuant to this section is not "security," as defined in Section 1950.5.



AB 2297

The Undoing of California's Security Deposit Protections

What is AB 2297?

AB 2297 is a bill introduced by Assemblymember Buffy Wicks. The bill claims to create a “choice” for tenants concerning security deposits. Instead, the bill legalizes landlords charging nonrefundable monthly fees instead of standard security deposits. The bill creates no tangible benefit for tenants, and instead makes them potentially liable for increased damages and attorneys’ fees.

Does AB 2297 Set A Maximum Monthly Fee That Landlords Can Charge?

No. If the bill were to pass, landlords could charge tenants hundreds of dollars in monthly fees.

If a Tenant Causes Damages, Will The Fees be Used to Cover the Damage?

No. The landlord will not need to account for the nonrefundable fees in any way. This means that if a landlord alleges that the tenant did not pay rent or damaged the unit, the money that the tenant paid in “fees” will not offset the claimed damage.

Can a Tenant Choose to Pay a Regular Deposit?

The bill states that landlords must offer tenants the choice to pay a traditional security deposit. However, the law does not provide any remedy against a landlord who only accepts fee-paying tenants. If presented with an option to pay a \$500 monthly fee or a one-time \$3,000 deposit that the landlord must return, tenants will know which option they must choose to have their application for tenancy accepted.

Can a Tenant Stop Paying The Fees?

AB 2297 states that a tenant can stop paying fees at any time if they provide the landlord with a standard deposit. However, a tenant forced to pay hundreds of dollars a month may never be in a position to pay a large deposit. Further, as the state lacks meaningful just cause, retaliation, and anti-harassment protections, many tenants will be playing with fire by withdrawing this income source from their landlords.

What Happens if a Landlord Claims a Fee-Paying Tenant Damages a Rental Unit?

The most troubling aspect of AB 2297 is the creation of an elaborate scheme to defraud tenants and saddle them with thousands of dollars in damages and legal fees. If AB 2297 were to pass, landlords could make a claim to a “third-party” collector that a tenant had damaged their unit. The tenant would have no meaningful ability to challenge this claim.

The collector could then sue the tenant not only for the alleged damage to the tenants’ home but for legal fees and costs. Even if the tenant didn’t challenge the lawsuit at all, they could still be saddled with thousands of dollars in fees. Tenants who fight the cases will almost always be worse off. AB 2297 creates a system where even if a tenant fights and dramatically reduces the landlord’s claims, they will still need to pay the opposing attorney’s fees unless they can prove they caused \$0 in damage to the apartment. For example, a landlord might claim that a tenant caused \$10,000 of scratches to a hardwood floor. If the tenant retained an attorney, fought the lawsuit, and proved they only caused \$100 in damages, they would still need to pay for all of the other side’s attorney’s fees (in addition to their own attorney’s fees). These fees could amount to tens of thousands of dollars.



AB-2713 Tenant protections: just cause termination: rent caps. (2021-2022)

As Amends the Law Today

SECTION 1. Section 1946.2 of the Civil Code is amended to read:

1946.2. (a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for 12 months, the owner of the residential real property shall not terminate the tenancy without just cause, which shall be stated in the written notice to terminate *the* tenancy. If any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months, then this subdivision shall only apply if either of the following are satisfied:

(1) All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.

(2) One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

(b) For purposes of this section, "just cause" *includes means* either of the following:

(1) At-fault just cause, which is any of the following:

(A) Default in the payment of rent.

(B) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation.

(C) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(D) Committing waste as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(E) The tenant had a written lease that terminated on or after January 1, 2020, or January 1, 2022, if the lease is for a tenancy in a mobilehome, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this section or any other *provision of* law.

(F) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the Penal Code, on or off the residential real property, that is directed at any owner or agent of the owner of the residential real property.

(G) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(H) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of this code, and Sections 13113.7 and 17926.1 of the Health and Safety Code.

(I) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

(J) *(i)* The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a *licensee licensee*, as described in paragraph (1) of Section 1161 of the Code of Civil Procedure.

(ii) This subparagraph does not apply to an employee who was a tenant in the same unit before the commencement of the employee's employment.

(K) When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the Code of Civil Procedure.

(2) No-fault just cause, which **includes means** any of the following:

(A) (i) ~~Intent to~~ *Subject to clause (ii), good faith intent to* occupy the residential real property by the owner or ~~their~~ *the owner's* spouse, domestic partner, children, grandchildren, parents, or ~~grandparents.~~ *grandparents for at least three consecutive years. For purposes of this subparagraph, "owner" means an owner who is a natural person who has at least a 51 percent recorded ownership interest in the property.*

(ii) (I) For leases entered into on or after July 1, 2020, or July 1, 2022, if the lease is for a tenancy in a mobilehome, clause (i) shall apply only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the owner to terminate the lease if the owner, or ~~their~~ *the owner's* spouse, domestic partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the residential real property. Addition of a provision allowing the owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1).

(II) An owner shall not terminate a tenancy under this subparagraph if the same owner or relative already occupies a unit on the residential real property or if there is a vacancy on the residential real property.

(III) A notice of termination citing the no-fault just cause described in this subparagraph shall state the name, address, and relationship to the owner of the individual intending to occupy the unit.

(IV) An owner who terminated a tenancy pursuant to this subparagraph shall re-offer the unit to the displaced tenant at the same rent and under the same terms as when the tenancy was terminated if either of the following is true:

(ia) The owner or relative fails to occupy the property within 90 days.

(ib) The owner or relative fails to occupy the property for at least three consecutive years.

(B) (i) Withdrawal of ~~the~~ *all of the rental units at the* residential real property from the rental ~~market.~~ *market for the purpose of changing the property's use from residential use to nonresidential use or for the purpose of selling each unit on the property for owner-occupancy, only if both of the following are true and described with particularity in a notice to the tenant pursuant to subdivision (a):*

(I) The owner has previously provided the tenant with a written notice of intent to withdraw the unit from the rental market pursuant to paragraph (4) of subdivision (d) before serving a notice of termination pursuant to subdivision (a) describing the intended use of the property pursuant to this subparagraph.

(II) Either of the following:

(ia) If the owner intends to change the use to a nonresidential use, the owner has filed a complete application with the appropriate local governmental agency to obtain any necessary approvals for the intended nonresidential use, including, but not limited to, a demolition permit, if required. For purposes of this subclause, a nonresidential use includes demolition of the structure or maintaining the structure as vacant.

(ib) If the owner intends to sell the units, the owner has obtained any necessary state and local approvals to subdivide and market the units and has complied with any state and local laws governing the conversion of rental units to for-sale units, including, but not limited to, conversion of rental units to condominiums.

(ii) If the owner does not change the property's use or returns the property to the rental market after having terminated a tenancy pursuant to this subparagraph, the owner shall re-offer a unit to any tenant who was displaced by the notice to terminate at the same rental rate and terms as when the tenancy was terminated.

(C) (i) The owner complying with any of the following:

(I) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

(II) An order issued by a government agency or court to vacate the residential real property.

(III) A local ordinance that necessitates vacating the residential real property.

(ii) If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under clause (i), the tenant shall not be entitled to relocation assistance as outlined in paragraph (3) of subdivision (d).

(D) (i) ~~Intent to~~ *Subject to clause (ii), intent to* demolish or to substantially remodel the residential real property.

(ii) Before an owner of residential real property issues a notice to terminate a tenancy based on intent to demolish or substantially remodel the property, the owner shall obtain any necessary permits for the demolition or substantial remodel from the applicable governmental agencies. A termination notice based on intent to demolish or substantially remodel shall include a copy of any issued permits and include reasonably detailed information regarding all of the following:

(I) The nature and scope of the demolition or substantial remodeling work.

(II) Why the demolition or substantial remodel cannot be reasonably accomplished in a safe manner with the tenant in place.

(III) Why the demolition or substantial remodel requires the tenant to vacate for at least 30 days.

~~(ii)~~ (iii) For purposes of this subparagraph, "substantially remodel" means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

(c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

(d) (1) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on a no-fault just cause described in paragraph (2) of subdivision (b), the owner shall, regardless of the tenant's income, at the owner's option, do one of the following:

(A) Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph (3).

(B) Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due.

(2) If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant of the tenant's right to relocation assistance or rent waiver pursuant to this section. If the owner elects to waive the rent for the final month of the tenancy as provided in subparagraph (B) of paragraph (1), the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.

(3) (A) The amount of relocation assistance or rent waiver shall be equal to one month of the tenant's rent that was in effect when the owner issued the notice to terminate the tenancy. Any relocation assistance shall be provided within 15 calendar days of service of the notice.

(B) If a tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.

(C) The relocation assistance or rent waiver required by this subdivision shall be credited against any other relocation assistance required by any other law.

(4) (A) An owner that issues a notice to terminate a tenancy pursuant to subparagraph (B) of paragraph (2) of subdivision (b) shall provide a separate written notice at least 180 days before issuing the notice pursuant to subparagraph (B) of paragraph (2) of subdivision (b) notifying the tenant of the owner's intent to remove the unit from the rental market.

(B) (i) The notice required by this paragraph shall state that if the tenant or a member of the household is at least 62 years of age or disabled, the tenant may request an extension of the notice to one year if the tenant or lessee gives written notice of the tenant's or lessee's entitlement to an extension to the owner within 60 days of the date of delivery to the tenant of the notice required by this paragraph.

(ii) If a notice from the tenant is provided pursuant to this subparagraph, the landlord shall not serve a notice pursuant to subparagraph (B) of paragraph (2) of subdivision (b) until at least one year after service of the notice required by this paragraph.

(iii) During the period covered by the notice required by this paragraph, both of the following shall apply:

(I) The tenancy shall be continued on the same terms and conditions as existed on the date of delivery of the notice required by this paragraph, subject to the valid terms of a lease or rental agreement in effect at the time of service that are not in conflict with or purport to waive this section.

(II) A party shall not be relieved of the duty to perform any obligation under the lease or rental agreement.

~~(4)~~ (5) An owner's failure to strictly comply with this subdivision shall render the notice of termination void.

(e) This section shall not apply to the following types of residential real properties or residential circumstances:

(1) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940.

(2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.

(3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

(4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

(5) Single-family owner-occupied residences, including both of the following:

(A) A residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.

(B) A mobilehome.

(6) A property containing two separate dwelling units within a single structure in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy, and neither unit is an accessory dwelling unit or a junior accessory dwelling unit.

(7) Housing that has been issued a certificate of occupancy within the previous 15 years, unless the housing is a mobilehome.

(8) Residential real property, including a mobilehome, that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(iv) Management of a mobilehome park, as defined in Section 798.2.

(B) (i) The tenants have been provided written notice that the residential property is exempt from this section using the following statement:

"This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation."

(ii) (I) Except as provided in subclause (II), for a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(II) For a tenancy in a mobilehome existing before July 1, 2022, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) (I) Except as provided in subclause (II), for any tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(II) For any tenancy in a mobilehome commenced or renewed on or after July 1, 2022, the notice required under clause (i) shall be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b).

(9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

(f) An owner of residential real property subject to this section shall provide notice to the tenant as follows:

(1) (A) Except as provided in subparagraph (B), for any tenancy commenced or renewed on or after July 1, 2020, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.

(B) For a tenancy in a mobilehome commenced or renewed on or after July 1, 2022, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.

(2) (A) Except as provided in subparagraph (B), for a tenancy existing prior to July 1, 2020, by written notice to the tenant no later than August 1, 2020, or as an addendum to the lease or rental agreement.

(B) For a tenancy in a mobilehome existing prior to July 1, 2022, by written notice to the tenant no later than August 1, 2022, or as an addendum to the lease or rental agreement.

(3) The notification or lease provision shall be in no less than 12-point type, and shall include the following:

"California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information."

The provision of the notice shall be subject to Section 1632.

(g) (1) This section does not apply to the following residential real property:

(A) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted on or before September 1, 2019, in which case the local ordinance shall apply.

(B) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted or amended after September 1, 2019, that is more protective than this section, in which case

the local ordinance shall apply. For purposes of this subparagraph, an ordinance is "more protective" if it meets all of the following criteria:

(i) The just cause for termination of a residential tenancy under the local ordinance is consistent with this section.

(ii) The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, or provides additional tenant protections that are not prohibited by any other provision of law.

(iii) The local government has made a binding finding within their local ordinance that the ordinance is more protective than the provisions of this section.

(2) A residential real property shall not be subject to both a local ordinance requiring just cause for termination of a residential tenancy and this section.

(3) A local ordinance adopted after September 1, 2019, that is less protective than this section shall not be enforced unless this section is repealed.

(h) Any waiver of the rights under this section shall be void as contrary to public policy.

(i) A termination notice issued pursuant to this section shall state the lawful rent amount in effect for the unit at the time the termination notice was served.

~~(j)~~ (j) For the purposes of this section, the following definitions shall apply:

(1) "Owner" ~~includes~~ *means, except as provided in subparagraph (A) of paragraph (2) of subdivision (b),* any person, acting as principal or through an agent, having the right to offer residential real property for rent, and includes a predecessor in interest to the owner.

(2) "Residential real property" means any dwelling or unit that is intended for human habitation, including any dwelling or unit in a mobilehome park.

(3) "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.

~~(k)~~ (k) This section shall not apply to a homeowner of a mobilehome, as defined in Section 798.9.

~~(l)~~ (l) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 2. Section 1947.12 of the Civil Code is amended to read:

1947.12. (a) (1) (A) Subject to subdivision (b), an owner of residential real property shall not, over the course of any 12-month period, increase the gross rental rate for a dwelling or a unit more than 5 percent plus the percentage change in the cost of living, or 10 percent, whichever is lower, of the lowest gross rental rate charged for that dwelling or unit at any time during the 12 months prior to the effective date of the increase. In determining the lowest gross rental amount pursuant to this section, any rent discounts, incentives, concessions, or credits offered by the owner of such unit of residential real property and accepted by the tenant shall be excluded. The gross per-month rental rate and any owner-offered discounts, incentives, concessions, or credits shall be separately listed and identified in the lease or rental agreement or any amendments to an existing lease or rental agreement.

(B) A lease provision that results in an increase in the gross rental rate for a dwelling unit that would exceed the limits provided in this paragraph, including a lease provision that purports to render a service or amenity previously provided or paid for by the landlord the financial obligation of the tenant without a corresponding reduction in rent, shall not be enforceable.

(2) If the same tenant remains in occupancy of a unit of residential real property over any 12-month period, the gross rental rate for the unit of residential real property shall not be increased in more than two increments over that 12-month period, subject to the other restrictions of this subdivision governing gross rental rate increase.

(b) For a new tenancy in which no tenant from the prior tenancy remains in lawful possession of the residential real property, the owner may establish the initial rental rate not subject to subdivision (a). Subdivision (a) is only applicable to subsequent increases after that initial rental rate has been established.

(c) A tenant of residential real property subject to this section shall not enter into a sublease that results in a total rent for the premises that exceeds the allowable rental rate authorized by subdivision (a). Nothing in this subdivision authorizes a tenant to sublet or assign the tenant's interest where otherwise prohibited.

(d) This section shall not apply to the following residential real properties:

(1) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

(2) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

(3) Housing subject to rent or price control through a public entity's valid exercise of its police power consistent with Chapter 2.7 (commencing with Section 1954.50) that restricts annual increases in the rental rate to an amount less than that provided in subdivision (a).

(4) Housing that has been issued a certificate of occupancy within the previous 15 years, unless the housing is a mobilehome.

(5) Residential real property that is alienable separate from the title to any other dwelling unit, including a mobilehome, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A corporation.

(iii) A limited liability company in which at least one member is a corporation.

(iv) Management of a mobilehome park, as defined in Section 798.2.

(B) (i) The tenants have been provided written notice that the residential real property is exempt from this section using the following statement:

"This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation."

(ii) For a tenancy existing before July 1, 2020, or July 1, 2022, if the lease is for a tenancy in a mobilehome, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) For a tenancy commenced or renewed on or after July 1, 2020, or July 1, 2022, if the lease is for a tenancy in a mobilehome, the notice required under clause (i) must be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b) of Section 1946.2.

(6) A property containing two separate dwelling units within a single structure in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy, and neither unit is an accessory dwelling unit or a junior accessory dwelling unit.

(e) An owner shall provide notice of any increase in the rental rate, pursuant to subdivision (a), to each tenant in accordance with Section 827.

(f) (1) On or before January 1, 2030, the Legislative Analyst's Office shall report to the Legislature regarding the effectiveness of this section and Section 1947.13. The report shall include, but not be limited to, the impact of the rental rate cap pursuant to subdivision (a) on the housing market within the state.

(2) The report required by paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(g) For the purposes of this section, the following definitions shall apply:

(1) "Consumer Price Index for All Urban Consumers for All Items" means the following:

(A) The Consumer Price Index for All Urban Consumers for All Items (CPI-U) for the metropolitan area in which the property is located, as published by the United States Bureau of Labor Statistics, which are as follows:

(i) The CPI-U for the Los Angeles-Long Beach-Anaheim metropolitan area covering the Counties of Los Angeles and Orange.

(ii) The CPI-U for the Riverside-San Bernardo-Ontario metropolitan area covering the Counties of Riverside and San Bernardino.

(iii) The CPI-U for the San Diego-Carlsbad metropolitan area covering the County of San Diego.

(iv) The CPI-U for the San Francisco-Oakland-Hayward metropolitan area covering the Counties of Alameda, Contra Costa, Marin, San Francisco, and San Mateo.

(v) Any successor metropolitan area index to any of the indexes listed in clauses (i) to (iv), inclusive.

(B) If the United States Bureau of Labor Statistics does not publish a CPI-U for the metropolitan area in which the property is located, the California Consumer Price Index for All Urban Consumers for All Items as published by the Department of Industrial Relations.

(C) On or after January 1, 2021, if the United States Bureau of Labor Statistics publishes a CPI-U index for one or more metropolitan areas not listed in subparagraph (A), that CPI-U index shall apply in those areas with respect to rent increases that take effect on or after August 1 of the calendar year in which the 12-month change in that CPI-U, as described in subparagraph (B) of paragraph (3), is first published.

(2) "Owner" includes any person, acting as principal or through an agent, having the right to offer residential real property for rent, and includes a predecessor in interest to the owner.

(3) (A) "Percentage change in the cost of living" means the percentage change, computed pursuant to subparagraph (B), in the applicable, as determined pursuant to paragraph (1), Consumer Price Index for All Urban Consumers for All Items.

(B) (i) For rent increases that take effect before August 1 of any calendar year, the following shall apply:

(I) The percentage change shall be the percentage change in the amount published for April of the immediately preceding calendar year and April of the year before that.

(II) If there is not an amount published in April for the applicable geographic area, the percentage change shall be the percentage change in the amount published for March of the immediately preceding calendar year and March of the year before that.

(ii) For rent increases that take effect on or after August 1 of any calendar year, the following shall apply:

(I) The percentage change shall be the percentage change in the amount published for April of that calendar year and April of the immediately preceding calendar year.

(II) If there is not an amount published in April for the applicable geographic area, the percentage change shall be the percentage change in the amount published for March of that calendar year and March of the immediately preceding calendar year.

(iii) The percentage change shall be rounded to the nearest one-tenth of 1 percent.

(4) "Residential real property" means any dwelling or unit that is intended for human habitation, including any dwelling or unit in a mobilehome park.

(5) "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.

(h) (1) This section shall apply to all rent increases subject to subdivision (a) occurring on or after March 15, 2019, except as provided in subdivision (i).

(2) In the event that an owner has increased the rent by more than the amount permissible under subdivision (a) between March 15, 2019, and January 1, 2020, both of the following shall apply:

(A) The applicable rent on January 1, 2020, shall be the rent as of March 15, 2019, plus the maximum permissible increase under subdivision (a).

(B) An owner shall not be liable to the tenant for any corresponding rent overpayment.

(3) An owner of residential real property subject to subdivision (a) who increased the rental rate on that residential real property on or after March 15, 2019, but prior to January 1, 2020, by an amount less than the rental rate increase permitted by subdivision (a) shall be allowed to increase the rental rate twice, as provided in paragraph (2) of subdivision (a), within 12 months of March 15, 2019, but in no event shall that rental rate increase exceed the maximum rental rate increase permitted by subdivision (a).

(i) (1) Notwithstanding subdivision (h), this section shall apply only to rent increases for a tenancy in a mobilehome subject to subdivision (a) occurring on or after February 18, 2021.

(2) In the event that an owner has increased the rent for a tenancy in a mobilehome by more than the amount permissible under subdivision (a) between February 18, 2021, and January 1, 2022, both of the following shall apply:

(A) The applicable rent on January 1, 2022, shall be the rent as of February 18, 2021, plus the maximum permissible increase under subdivision (a).

(B) An owner shall not be liable to the tenant for any corresponding rent overpayment.

(3) An owner of residential real property subject to subdivision (a) who increased the rental rate on that residential real property on or after February 18, 2021, but prior to January 1, 2022, by an amount less than the rental rate increase permitted by subdivision (a) shall be allowed to increase the rental rate twice, as provided in paragraph (2) of subdivision (a), within 12 months of February 18, 2021, but in no event shall that rental rate increase exceed the maximum rental rate increase permitted by subdivision (a).

(j) This section shall not apply to a homeowner of a mobilehome, as defined in Section 798.9.

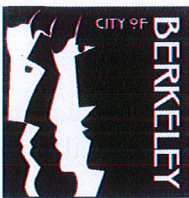
(k) Any waiver of the rights under this section shall be void as contrary to public policy.

(l) This section shall remain in effect until January 1, 2030, and as of that date is repealed.

(m) (1) The Legislature finds and declares that the unique circumstances of the current housing crisis require a statewide response to address rent gouging by establishing statewide limitations on gross rental rate increases.

(2) It is the intent of the Legislature that this section should apply only for the limited time needed to address the current statewide housing crisis, as described in paragraph (1). This section is not intended to expand or limit the authority of local governments to establish local policies regulating rents consistent with Chapter 2.7 (commencing with Section 1954.50), nor is it a statement regarding the appropriate, allowable rental rate increase when a local government adopts a policy regulating rent that is otherwise consistent with Chapter 2.7 (commencing with Section 1954.50).

(3) Nothing in this section authorizes a local government to establish limitations on any rental rate increases not otherwise permissible under Chapter 2.7 (commencing with Section 1954.50), or affects the existing authority of a local government to adopt or maintain rent controls or price controls consistent with that chapter.



Rent Stabilization Board
Legal Unit

MEMORANDUM

DATE: March 17, 2022

TO: Honorable Members of the Berkeley Rent Stabilization Board

FROM: Honorable Members of the Legislation, IRA/AGA & Registration Committee
By: Matt Brown, General Counsel *MB*
Matthew Siegel, Staff Attorney

SUBJECT: Proposed Amendments to Rent Stabilization and Eviction for Good Cause Ordinance to be Placed on November 2022 Ballot

Summary

This Legislation, IRA/AGA & Registration Committee has discussed potential amendments to the Rent Stabilization and Eviction for Good Cause Ordinance to propose to the full Board at each meeting since October 13, 2020. At its March 9, 2022 meeting, the Committee recommended the amendments articulated in this memorandum. The amendments are designed to ensure that the Ordinance better serves its purpose; namely the prevention of arbitrary, discriminatory or retaliatory evictions, in order to maintain the diversity of the Berkeley community and to ensure compliance with legal obligations relating to the rental of housing. In light of both the ongoing housing crisis and the continuing threat to housing stability posed by the COVID-19 pandemic, these proposed amendments enhance the ability of the Board and City Council to preserve the public peace, health and safety, and the availability of housing for low and fixed income households, people of color, students, people with disabilities, and older residents.

Should the Board support these amendments, staff will forward them to the 4 x 4 Committee and then to the full Council for review as Council will have to place these items on the ballot for the November general election.

The proposed amendments include an amendment to allow for rent control protections to attach to new units that were built as the result of demolition of pre-existing residential structures now

allowed by Senate Bill 330 (SB 330); an amendment to expand eviction protections for tenant households that exceed the number of occupants allowed at the inception of the tenancy; a revision to the new construction exemption that would allow for units to be rent-controlled when an owner agrees by contract with the City to assistance; and an elimination of City Council's ability to exempt rent control from units when the vacancy rate reaches a certain level. Each proposed amendment is discussed separately below.

1. Allowance for rent control protections on new units covered by SB 330

Background and Need for Rent Stabilization Board Action:

SB 330 specifically allows cities to impose rent control protections on units that are built as the result of demolition of previously-controlled units. The Housing Crisis Act of 2019 requires all housing projects that demolish existing residential units to create as least as many residential units as are being demolished. Projects that contain "protected units," which include residential units that have been subject to a local rent control program within the previous five years, are required to provide replacement units at an affordable rent (or sales price) with the same number of bedrooms as the demolished unit. The affordability level of a replacement unit is based on the income level of the last household occupying the demolished unit and must be rented (or sold) at a rate that is affordable to occupants of the same income category or lower. If a "protected unit" was last occupied by persons or families above the low-income category, the affected city has the option to require that the housing project provide: 1) a replacement unit affordable to low-income households for a period of at least 55 years, or 2) a replacement unit that complies with the jurisdiction's rent or price control ordinance.

Currently, the law expressly exempts newly constructed units from Chapters 10 (Establishment of Base Rent Ceiling and Posting), 11 (Annual General Adjustment of Rent Ceilings) and 12 (Individual Adjustments of Rent Ceilings) of the Rent Ordinance. These residential units are subject to the registration requirements of Measure MM, are covered by good cause for eviction, and are entitled to annual security deposit interest, but they are not subject to local rent controls. SB 330 would allow for these new units created as the result of demolished units to be fully covered by the rent control provisions of the ordinance should the City choose that option when approving new construction that was the result of demolition of existing qualifying units.

The Legislation, IRA/AGA & Registration Committee has directed staff to draft language that would amend the Rent Ordinance to allow these units to be fully rent-controlled. To that end, we have added a section to Chapter 4 of the ordinance that distinguishes this type of new construction to that described in BMC Section 13.76.040Q. We also proposed specific reference to paragraph Q in Chapter 5 of the ordinance to distinguish it from newly constructed units that remain exempt from local rent controls.

Proposed Language:

Chapter 13.76 is amended as follows:

Section 13.76.040

DEFINITIONS

R. Notwithstanding any other provision in this ordinance and to the extent that state or local law permits, any residential rental units created as a result of demolition or replacement where such demolition or replacement is affected via the creation of a “housing development project” as defined in the Housing Crisis Act of 2019 (Senate Bill 330), shall not be exempt as “newly constructed units” and, unless otherwise exempt, shall be covered by all provisions of this chapter.

Section 13.76.050

APPLICABILITY

I. Newly constructed rental units, as defined in Section 13.76.040Q. However, the exemption of such newly constructed units shall be limited to their exemption from the terms of Section 13.76.100, Establishment of Base Rent Ceiling and Posting; Section 13.76.110, Annual General Adjustment of Rent Ceilings; and Section 13.76.120, Individual Adjustments of Rent Ceilings, of this chapter. To the extent that state law permits, the exemption of such newly constructed units shall be limited to the first 20 years after completion of construction.

2. Allow for increased occupancy of rental units without threat of eviction

Background and Need for Rent Stabilization Board Action:

The committee recommended that the Board propose amendments to the Ordinance to be put on the November 2022 general election ballot to prohibit evictions based on the addition of occupants if the landlord has unreasonably refused the tenant’s written request, including a refusal based on the number of occupants allowed by the rental agreement or lease. The committee also expressed strong interest in adopting changes to Regulation 1270 to be more permissive in allowing an increase in the number of tenants occupying a unit without a corresponding rent increase should such amendments to the eviction protections be adopted by the voters.

Tenants’ ability to add additional occupants to their household can be a precarious proposition given the good cause eviction protections of the ordinance which allow for eviction if a tenant substantially violates a material term of the rental agreement. While there is a protection for one-for-one replacement of tenants, the Ordinance specifically provides a ground for eviction when any subletting by the tenant household results in an increase of the base occupancy level (B.M.C. 13.76.130A.2.(c)). For this reason, the committee recommended amendments be made to the Ordinance prior to the adoption or amendment of any regulations that intend to expand a tenant’s right to increase the size of their household.

While the Board already has express authority to regulate the manner and grounds for which rents may be increased or decreased,¹ the grounds for eviction are hard-coded in the Ordinance (B.M.C. 13.76.130.). One such basis for eviction is when the "...tenant has continued...to substantially violate any of the material terms of the rental agreement..."(B.M.C. 13.76.130A.2.). Thus, while Board Regulation 1270 can be amended to allow for an increase in the base occupancy level of a unit without a corresponding rent increase, the regulation cannot override the good cause for eviction based on a lease violation, such as when a household has more occupants than those allowed pursuant to the initial agreement between the landlord and tenant.

The committee elected to put the proposed changes to the good cause for eviction section of the ordinance before the voters to protect tenants from displacement prior to adopting amendments to the ordinance that would disallow rent increases for increases in occupancy.

Proposed Language:

Section 13.76.130

GOOD CAUSE REQUIRED FOR EVICTION

2. The tenant has continued, after written notice to cease, to substantially violate any of the material terms of the rental agreement, except the obligation to surrender possession on proper notice as required by law, and provided that such terms are reasonable and legal and have been accepted in writing by the tenant or made part of the rental agreement; and provided further that, where such terms have been accepted by the tenant or made part of the rental agreement subsequent to the initial creation of the tenancy, the landlord shall have first notified the tenant in writing that he or she need not accept such terms or agree to their being made part of the rental agreement. Notwithstanding any contrary provision in this chapter or in the rental agreement, a landlord is not entitled to recover possession of a rental unit under this subsection where a tenant permits his or her rental unit to be occupied by a subtenant, provided:

- a. The landlord has unreasonably withheld consent to the subtenancy; and
- b. The tenant remains an actual occupant of the rental unit; and
- c. The number of tenants and subtenants actually occupying the rental unit does not exceed ~~the number of occupants originally allowed by the rental agreement or the board's regulations, whichever is greater~~ the maximum number of occupants legally allowed

¹ See B.M.C. Section 13.76.120C.

under Section 503(b)(2) of the Uniform Housing Code as incorporated by California Health & Safety Code Section 17922, except where prohibited by law.

d. Withholding of consent by the landlord shall be deemed to be unreasonable where:

(i) ~~The tenant's written request for consent was given at least two weeks prior to commencement of the subtenancy~~ tenant has made a written request to the landlord to either sublet the unit and/or add additional occupants, and the landlord has failed to respond in writing within fourteen (14) days of the tenant's request;
or

(ii) The proposed new subtenant has, upon the landlord's written request, completed the landlord's standard form application or provided sufficient information to allow the landlord to conduct a standard background check, including references and credit, income and other reasonable background information, and the proposed new subtenant or additional occupant meets the landlord's customary occupancy qualifications and has not refused the landlord's request to be bound by the terms of the current rental agreement between the landlord and the tenant; and or

~~(iii) The proposed new subtenant meets the landlord's customary occupancy qualifications and has not refused the landlord's request to be bound by the terms of the current rental agreement between the landlord and the tenant; and~~

(iv) The landlord has not articulated in writing a well-founded reason for refusing consent. A landlord's reasonable denial may not be based on the proposed occupant's lack of credit worthiness or income if that occupant will not be legally obligated to pay some or all of the rent to the landlord.

e. Where a landlord can establish that the proposed additional occupant presents a direct threat to the health, safety, or security of other residents of the property, the landlord shall have the right to deny the proposed tenant's occupancy.

f. Before initiating an action to recover possession based on the violation of a lawful obligation or covenant of tenancy regarding subletting or limits on the number of occupants in the rental unit, the landlord shall serve the tenant a written notice of the violation that provides the tenant with a minimum of fourteen (14) days to cure the violation. The notice must also inform the tenant(s) of their right to add subtenants

and/or add additional occupants pursuant to this section.

3. Amendment to override Costa-Hawkins prohibition on rent control for new construction²

Background and Need for Rent Stabilization Board Action:

From Vice-Chair Alpert:

“State law currently contains two provisions which override Costa Hawkins prohibition on rent control for new construction and single-family homes.

One is found within Costa Hawkins itself, allowing for an owner to agree to forgo their exemption in exchange for a real economic consideration or a density bonus. This could be applied to already constructed housing (such as the City paying an owner to apply rent control to their exempt apartment) but is most likely to occur in the context of a new proposed development.

For example, a number of past projects which have been appealed to the Zoning Adjustments Board were granted approval in exchange for rent increases in some of the units being restricted. The projects were not able to fall under the City’s rent ordinance, however, because the ordinance does not currently make an exception to the new construction exemption for this type of agreement. Instead, the limits were included as contractual terms for the granting of permits, which severely restricts the impacted tenants’ ability to assert their rights and receive assistance from the Rent Board.

If the ordinance were amended, these types of units could instead be directly regulated by the Rent Board as any other type of controlled unit would be, allowing residents to access the protections and services the Rent Board provides. It would also avail landlords of the mediation and other services the Board provides which can lower costs when disputes arise.”

Proposed Language:

To be drafted following discussion with committees, Board, and Council.

² This change has been proposed by Vice-Chair Alpert who has agreed to submit a memo to the 4 x 4 Joint Committee on Housing, so that the committee and staff are better able to understand the direction of the amendments. What follows in this section was written by Vice-Chair Alpert. Once Vice-Chair Alpert’s memo has been submitted, and staff receives direction from the committee, Board, or Council, staff will endeavor to draft language to reflect the proposal. It should be noted that the Legislation, IRA/AGA & Registration Committee supported this proposal.

4. Eliminating “Decontrol” clause from ordinance

Background and Need for Rent Stabilization Action:

The Rent Ordinance has a section that allows the Berkeley City Council to exempt units from rent control should vacancy rates reach 5% over a six-month period.³ While Council has the discretion to eliminate rent controls for units (it is not mandatory), this clause is inconsistent with the Charter and most all of the Rent Ordinance which establishes the Board’s independent authority to regulate rents and administer the law independent of any other elected or appointed body. Moreover, given that both the Charter and Rent Ordinance are voter-adopted initiatives, it certainly makes more sense to put the issue of decontrol before the voters in the event that the community decides to eliminate local rent control. Council has no other authority to interfere either substantively or procedurally in the Board’s administration, so removing this clause will be consistent with the overall operation of the rent program and the law the Board and staff administer.

The proposal would be to simply eliminate this section of the Rent Ordinance.

Proposed Language:

Section 13.76.060

RENT STABILIZATION BOARD

~~Q. Decontrol: If the annual average vacancy rate for all rental units in the city of Berkeley exceeds five percent over a six month period, the city council is empowered, upon request by the board, at its discretion and in order to achieve the purposes of this chapter, to exempt rental units covered by this chapter from Sections 13.76.080, 13.76.100, 13.76.110 and 13.76.120 of this chapter. In determining the vacancy rate for the city of Berkeley the board and the city council shall consider all available data and may conduct their own survey. If units are exempted pursuant to this Subsection Q coverage shall be reimposed if the city council finds that the average annual vacancy rate has thereafter fallen below five percent. Prior to any decision to exempt or renew coverage for rental units under this Subsection Q the board shall hold at least two public hearings.~~

CONCLUSION

The LIRA Committee has unanimously proposed that the Board adopt these proposed amendments. After the Board discusses them and decides what it wishes to propose, the City Council will have to vote to place these matters on the ballot for the November general election. Following discussion and deliberation regarding these issues, legal staff intends to forward this memo to the 4 x 4 Committee’s March 23, 2022 meeting, so that Commissioners and Council are able to consider these matters prior to the Council voting to adopt ballot measures.

These are the initial matters discussed but this memo is not meant to be an exhaustive list of items the Legislation, IRA/AGA & Registration Committee wishes to consider placing on the

³ BMC Section 13.76.060Q.

November ballot. The Committee has informed legal staff that there may be other items they will request that the Board support. Time is of the essence as Council will have to place these matters on an agenda soon in order to meet any ballot measure deadlines. Staff awaits this Committee's instruction on how it wishes to proceed.



Office of the City Manager

Date: February 23, 2022

To: Honorable Mayor and Members of the City Council

From: *Dee* Dee Williams-Ridley, City Manager

Subject: **CalCHA & 2020 Kittredge Street Acquisition Information**

This memo is intended to provide an overview of the acquisition process of the California Community Housing Agency Middle Income Rental Housing Program (CalCHA) and the recent acquisition of 2020 Kittredge Street (also known as K StreetFlats) using CalCHA financing.

CalCHA Background

CalCHA is a Joint Powers Authority (JPA) authorized by the State to issue tax-exempt bonds in local jurisdictions. These bonds are used to acquire market rate properties and transition them to deed-restricted middle-income housing for incomes ranging between 80-120% of Area Median Income (AMI).

On February 23, 2021, Council adopted a resolution to join the JPA. This resolution enabled the City Manager to execute public benefit agreements with CalCHA for their acquisition of any properties within the City of Berkeley boundaries. This is necessary as CalCHA purchases properties on market timelines with closing requirements and timing. CalCHA cannot acquire any properties without the City's consent.

Staff advanced the resolution to Council for several reasons, including:

- An ongoing call by the community, commissions, and Council to serve these "missing middle" income ranges not typically served by the City's current affordable programs that have qualifying incomes ranging between 30-60% AMI.
- Interest and enthusiasm from the Council, commissions, and community in considering alternative models to bring an increasing portion of the City's housing stock into deed restricted affordability.
- The City is not responsible for any financial expenditures, liabilities, or obligations for bonds issued by CalCHA.
- The City's Housing Trust Fund is overcommitted compared to pending affordable projects in the pipeline, limiting the City's ability to support future affordable housing requests via its traditional financing practices.

- The City has the ability to acquire the property starting at Year 16 (assuming responsibility for the outstanding debt) or after the bonds are paid off (in Year 30- 35 depending on the project) with no debt. The City would then have the ability to assign the property to an affordable developer at current or deeper income restrictions with less overhead than new construction or acquisition (some rehabilitation funding may be beneficial). An example of this analysis is provided below.
- Over 20 comparable Bay Area jurisdictions had joined the JPA at the time of the report, and CalCHA had already purchased several properties in the region.

The City does forgo property tax revenue in exchange for these acquisitions. Essentially all deed-restricted affordable housing developments are eligible for property tax exemption. This occurs at all affordable properties throughout the City.

2020 Kittredge Acquisition

Council's adoption of the resolution to join the JPA on February 23, 2021 gave CalCHA the go-ahead to identify potential properties for purchase in Berkeley. On July 30, 2021, staff in HHCS were contacted by CalCHA and their development partner, HCF Development, to execute a Community Benefits Agreement for a bond issuance for the acquisition of 2020 Kittredge. This boilerplate agreement had been reviewed and approved by the City Attorney's Office in advance of the February 2021 Council meeting and, subsequently, HHCS worked with the City Attorney's Office to execute the agreement for purchase of 2020 Kittredge. The agreement was executed on August 10, 2021. CalCHA completed acquisition of the property on October 7, 2021.

2020 Kittredge is a 176-unit building, including 35 Below Market Rate (BMR) units at 60% AMI. The property's recorded deed restriction allows current tenants not to be displaced from their units based on income. Rents for this property will range for incomes between 60%-120% AMI once all non-income qualifying tenants vacate. The property manager is currently marketing vacant units at below market rates consistent with the deed restriction. CalCHA will provide the City with copies of its annual unit compliance report.

2020 Kittredge Analysis

The City's forgone property tax revenue should be considered in conjunction with the combined benefit of reduced rents and property acquisition option. This acquisition will provide the City a long-term opportunity for affordable housing acquisition at a relatively low cost compared to traditional affordable financing.

2020 Kittredge's total property tax contribution for 2021-2022 was approximately \$1.4M. The City of Berkeley's share of this revenue totaled \$210,358 for 2021-2022. Considering a simple 2% increase per year via Prop 13 regulations, this amounts to approximately \$10.5M over 35 years to acquire a 176-unit building dedicated to affordable housing. There are no income restrictions following the bond period, and the City can assign and reduce rents to lower AMI levels should it desire. For example, following Year 35, the City could assign the building to a nonprofit developer and restrict rents below 60% AMI for an additional 55 years (the current deed restriction length for City supported projects).

The City currently provides upfront costs for acquisition, new development, and rehabilitation. For comparison, on April 20, 2021, the City Council approved \$24.5M for a middle-income project to benefit employees of the Berkeley unified School District (BUSD). The current proposal is projecting 110 units at incomes ranging between 30%-110% AMI. BUSD is currently conducting an income survey of its employees and has the ability to increase its cap to 120% AMI to meet employee needs.

Comparing the two middle-income strategies: the costs of the BUSD project are approximately \$223,000/unit upfront while 2020 Kittredge will cost the City \$1,195/unit/year in foregone tax revenue per unit for each of 35 years. This equates to the option to acquire 2020 Kittredge for \$59,754 per unit deferred over 35 years. The BUSD project will provide homes for households with incomes between 30% and 110% of median (earning no more than \$124,355 for a household of three people) for at least 55 years. 2020 Kittredge will provide homes for households with incomes between 60% and 120% of median (earning no more than \$135,650 for a household of three people) for at least 35 years.

Future Opportunities and Next Steps

This model is an alternative way to defer acquisition on a large rental property that the City could not otherwise acquire with current upfront funding costs and obligations. It is important to emphasize that no properties can be acquired moving forward without the City's consent and the City does not need to take any action should it choose not to further participate in CalCHA. The City Manager will request a closed session discussion should future opportunities with CalCHA arise to ensure council direction is followed on a property by property basis.

Staff have formed a working group with other cities in Alameda County focused on CalCHA acquisitions and similar models that are gaining popularity. The goals of the group are to facilitate knowledge sharing and explore opportunities to strengthen our collective position. Many cities in Alameda County and the larger region opted to participate in CalCHA and staff are working to ensure the maximum benefits are delivered to our respective communities.

cc: Paul Buddenhagen, Deputy City Manager
LaTanya Bellow, Interim Deputy City Manager
Lisa Warhuus, Director, Health, Housing, and Community Services
Jenny Wong, City Auditor
Mark Numainville, City Clerk
Matthai Chakko, Assistant to the City Manager

“Community Health is Wealth Fair”

**March 12, 2022 Saturday • “Friends of Adeline”
is contributing (20) Tables Slots
8:30am (Set-up) /Tabling 10am-4pm**

“Keep the South Berkeley Community thriving and healthy”

Everyone from every “Community” is welcome.

“Thanks to service providers, merchants, non-profit contributors,
musicians and volunteers for their participation in the
Monthly Wellness Health Fair project.”

JOIN US FOR A DAY OF FUN , LIVE MUSIC , FREE FOOD

and informational Wellness Care at the Historical South Berkeley Ashby Flea
Market for the 1st “Berkeley Community Family for Health Fair”.

If interested respond to Friendsofadeline@gmail.com

“Committed” and the time you will arriving

Covid -19 Vaccination’s by Long Life Medical 12-2 pm

420 friendly

*If interested respond to Friendsofadeline@gmail.com
“Committed” and the time you will arriving...*



RENT STABILIZATION BOARD
BUDGET & PERSONNEL COMMITTEE MEETING

Tuesday, March 8, 2022

5:00 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 Berkeley Rent Stabilization Board (Rent Board) Resolution 21-29, this meeting of the Rent 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://us06web.zoom.us/j/83997610665?pwd=M3E0OUFRd0ZrNXEzUWx1TWxWNUEzUT09>. 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 Webinar ID: 839 9761 0665 and Passcode: 967661. 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 amueller@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 DéSeana Williams, Executive Director of the Rent Board, 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

Tuesday, March 8, 2022 – 5:00 p.m.

AGENDA

1. Roll Call
2. Land Acknowledgment Statement: *The Berkeley Rent Stabilization Board recognizes that the rental housing units we regulate are built on the territory of xučyun (Huchium-(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
4. Public Comment
5. Approval of the July 8, 2021 Meeting Minutes (Attached to Agenda)
6. Approval of August 31, 2021 Meeting Minutes (Attached to Agenda)
7. Approval of February 15, 2022 Meeting Minutes (Attached to Agenda)
8. Discussion and Possible Action regarding Mid-Fiscal Year Budget Review including Possible Changes to the Staffing Model (See attached report)
9. Discussion and Possible Action Regarding the Hiring of Consultants for Racial Equity Work and Personnel Evaluations

10. **CLOSED SESSION:** Public Employee Evaluation of Performance pursuant to California Government Code Section 54957(b)(1).

Title: Executive Director

11. Future Agenda Items
12. Scheduling of Next Meeting
13. Adjournment

STAFF CONTACT: DéSeana Williams, Executive Director (510) 981-7368

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



RENT STABILIZATION BOARD
LEGISLATION, IRA / AGA & REGISTRATION COMMITTEE MEETING

Wednesday, March 9, 2022

5:00 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 Berkeley Rent Stabilization Board (Rent Board) Resolution 21-29, this meeting of the Rent Board's **Legislation, IRA/AGA & Registration Committee** (Committee) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Resolution 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/89888378508?pwd=d05CMXJUZFptMFN3NkdoQW05SU92QT09>. . 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 Webinar ID: 898 8837 8508 and Passcode: 109179. 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 LIRA 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 DéSeana Williams, Executive Director of the Rent Board, 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

LEGISLATION, IRA / AGA & REGISTRATION COMMITTEE MEETING

Wednesday, March 9, 2022 – 5:00 p.m.

AGENDA

1. Roll call
2. Approval of the agenda
3. 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.
4. Approval of minutes from the February 9, 2022 meeting (Attached to agenda)
5. Public Comment
6. Chair Report
7. Discussion and possible action regarding potential 2022 ballot initiatives to amend the Berkeley Rent Ordinance (See attached staff report)
8. Discussion and possible action regarding future agenda items
9. Confirm next meeting date
10. Adjournment

STAFF CONTACT: Matt Brown, General Counsel (510) 981-4930

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



RENT STABILIZATION BOARD
OUTREACH COMMITTEE MEETING

Wednesday, March 16, 2022

5:15 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 Berkeley Rent Stabilization Board (Rent Board) Resolution 21-29, this meeting of the Rent Board's **Outreach Committee** (Committee) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Resolution 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/86942068044?pwd=V3ZCQk9tUWoxQUxUmVMNjdqYlpmdz09>. 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: 869 4206 8044 and Passcode: 218768. 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 3:15 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 DéSeana Williams, 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, March 16, 2022 – 5:15 p.m.

AGENDA

1. Roll call (2 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 the Agenda (2 min)
4. New Staff Member: PIU Manager Nathan Dahl (5 min)
5. Approval of the minutes of the February 16, 2022 meeting (5 min)
6. Public Comment (5 min)
7. Discussion/possible action regarding Social Media (10 min)
8. Discussion/possible action regarding 2022 Tenant Survey (20 min)
 - a. Staff Report on Vendor Contract, SSRC, CSU Fullerton
 - b. Pre-Survey Mailing Outreach and a Press Release
 - c. Topics to Cover: COVID-19 Impacts, Climate, Impact of Short Term Rentals, Displacement by OMI or Ellis, Tenant Buyouts

d. Demographics to examine: LGBTQ added to tenant population, displacement of Black, Brown or Indigenous tenants (examine causes)

9. Discussion/possible action regarding the Fair Chance Ordinance (5 min)
10. Staff Report on Status of Eviction Moratorium/Ellis Act (5 min)
11. Discussion/possible action regarding Emergency Rental Assistance (5 min)
(COVID impacts; EDC and EBCLC update)
12. Staff Report: Recent and Upcoming Webinars, Workshops (5 min)
13. Schedule Next Meeting Date (2 min)
14. Future Agenda Items (5 min)
15. Adjournment (2 min)

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

COMMITTEE: James Chang, Andy Kelley, Paola Laverde (Chair), Mari Mendonca



4x4 Committee on Housing
City Council and Rent Board

4 X 4 JOINT COMMITTEE ON HOUSING CITY COUNCIL/RENT STABILIZATION BOARD

Wednesday, February 23, 2022 – 3:00 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 Rent Board Resolution 21-29, this meeting of the City Council and Rent Stabilization Board's **4 x 4 Joint Committee on Housing** (Committee) 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/89750806233?pwd=Q2lQMlVQzUER2SGRqd0VrUGp6di82UT09>. 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: 897 5080 6233 and Passcode: 073996. 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 btran@cityofberkeley.info with the Subject line in this format: "PUBLIC COMMENT ITEM FOR 4 X 4 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 1:00 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 DéSeana Williams, Executive Director of the Rent Board, at (510) 981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



4x4 Committee on Housing
City Council and Rent Board

AGENDA

4 X 4 JOINT COMMITTEE ON HOUSING CITY COUNCIL/RENT STABILIZATION BOARD

Wednesday, February 23, 2022 – 3:00 p.m.

1. Roll call
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 the agenda
4. Public comment on non-agenda matters
5. Approval of January 11, 2022 Committee meeting minutes
6. Update on Measure MM registry expansion (Rent Board Staff)
7. Discussion regarding potential for adding more rent controlled units under CA Civil Code Section 1954.52(b) (requested by Vice-Chair Alpert)
8. Discussion regarding welfare exemption policy (requested by Chair Simon-Weisberg, see attachment)
9. Discussion and possible action to consider remedies for situations where landlords unilaterally change keyed entries to keyless entries and tenants are not able to use the new method of access (requested by Chair Simon-Weisberg)
10. Quick updates on previously discussed items
 - a. Update regarding Relocation Ordinance and suggested additions from previous discussion regarding Tenant Habitability Plan Ordinance
11. Adjournment

COMMITTEE MEMBERS:

Mayor Jesse Arreguín

City Councilmember Kate Harrison

City Councilmember Rigel Robinson

City Councilmember Terry Taplin

Rent Board Chairperson Leah Simon-Weisberg

Rent Board Vice-Chairperson Soli Alpert

Rent Board Commissioner Xavier Johnson

Rent Board Commissioner Andy Kelley



4x4 Committee on Housing
City Council and Rent Board

4 X 4 JOINT COMMITTEE ON HOUSING CITY COUNCIL/RENT STABILIZATION BOARD

Tuesday, January 11, 2022 – 3:00 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 Rent Board Resolution 21-29, this meeting of the City Council and Rent Stabilization Board's **4 x 4 Joint Committee on Housing** (Committee) 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/81526431015?pwd=cUFSZFP6ektjUTdqYnZJaXZLTWZoQT09>. 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: 815 2643 1015 and Passcode: 599186. 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 btran@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM FOR 4 X 4 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 1:00 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 DéSeana Williams, Executive Director of the Rent Board, at (510) 981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



City Council and Rent Board

4 X 4 JOINT COMMITTEE ON HOUSING CITY COUNCIL/RENT STABILIZATION BOARD

Tuesday, January 11, 2022 – 3:00 p.m.

Minutes To Be Approved

- Roll Call: Mayor Arreguín called the meeting to order at 3:03 p.m.
Present: RBC Alpert, Mayor Arreguín, CM Harrison (logged off at 5:06 p.m.), RBC Johnson, RBC Kelley, CM Robinson, RB Chair Simon-Weisberg, CM Taplin.
Absent: None.
Staff present: Matt Brown, Lief Bursell, Angie Chen, Nate Dahl, Stefan Elgstrand, Margot Ernst, Jen Fabish, J.T. Harechmak, Jordan Klein, David Lopez, Matthew Siegel, Be Tran, DéSeana Williams.
- Approval of the Agenda: M/S/C (Robison/Johnson) Approve the agenda as written. YES: Alpert, Arreguín, Harrison, Johnson, Kelley, Robinson, Simon-Weisberg, Taplin; NO: None; ABSTAIN: None; ABSENT: None. Carried: 8-0-0-0.
- Public Comment on Non-Agenda Matters: One speaker (who spoke on a non-agenda matter following item 6.)
- Approval of October 27, 2021 Committee Meeting Minutes: M/S/C (Harrison/Alpert) Approve the minutes as written. YES: Alpert, Arreguín, Harrison, Johnson, Kelley, Robinson, Simon-Weisberg, Taplin; NO: None; ABSTAIN: None; ABSENT: None. Carried: 8-0-0-0.
- Introduction of New Executive Director of the Berkeley Rent Stabilization Board: DéSeana Williams: RBC Simon-Weisberg introduced Ms. Williams, who made brief comments and was welcomed by committee members.
- Discussion of Relocation Ordinance and Possible Amendments (Vice Chair Alpert): Vice Chair Alpert introduced the item. Nathan Dahl from the Health, Housing, and Community Services Department, and David Lopez and Jordan Klein from the Planning Department offered perspectives on current administration practices. The committee discussed, amongst other things, clarifying who can trigger the Ordinance and tenant appeal rights. Staff will meet to discuss these and other issues raised during the discussion. The committee requested a memorandum in follow-up.

There was one public speaker on this item, who also spoke on a non-agenda matter.

7. Evaluation of City Laws Affecting Tenants During Construction and Suggested Additions from Tenant Habitability Plan Ordinance (Presentation and Memo from Mayor Arreguín and Chair Simon-Weisberg): Mayor Arreguín and RB Chair Simon Weisberg presented. The committee discussed the potential of a local Habitability Plan Ordinance, and intersections with previously discussed Relocation Ordinance issues. Rent Board staff attorney Matthew Siegel proposed possible pathways forward. The committee discussed a working group approach, and will prepare a recommendation for Council to be voted on by the committee at the next meeting. Rent Board General Counsel Matt Brown offered support from the Rent Board's legal unit in preparing the item.

There was one public speaker.

8. Establish 2022 Meeting Dates: The committee agreed by consensus to continue meeting on the fourth Wednesday of each month at 3:00 p.m. The next meeting is scheduled for February 23.
9. Quick Updates on Previously Discussed Items: There were no updates and no public speakers.
10. Discussion of Possible Future Agenda Items
 - a. Elevator Ordinance Update (requested by Chair Simon-Weisberg)
 - b. First in Time Standard Update Related to Source of Income Ordinance (requested by Kelley)
 - c. Discussion on Potential for Adding More Rent Controlled Units Under CA Civil Code Section 1954.52(b) (requested by Alpert)

CM Harrison requested a Measure MM update, if not at the February meeting then in March. The committee asked for an update on Demolition Ordinance Amendments. RBC Alpert requested an update on the discussions staff have related to item 6.

11. Adjournment: M/S/C (Arreguín/Robinson) Motion to adjourn. YES: Alpert, Arreguín, Johnson, Kelley, Robinson, Simon-Weisberg, Taplin; No: None; Abstain: None; ABSENT: Harrison. Carried: 7-0-0-1. The meeting adjourned at 5:10 p.m.

COMMITTEE MEMBERS:

Mayor Jesse Arreguín	Rent Board Chairperson Leah Simon-Weisberg
City Councilmember Kate Harrison	Rent Board Vice-Chairperson Soli Alpert
City Councilmember Rigel Robinson	Rent Board Commissioner Xavier Johnson
City Councilmember Terry Taplin	Rent Board Commissioner Andy Kelley

Berkeleyside

HOUSING & DEVELOPMENT

Site of Berkeley balcony collapse sold, with promise of affordable housing

K Street Flats was quietly purchased last fall by an obscure Central Valley housing agency that owns several Bay Area apartment buildings.

By Nico Savidge, Feb. 13, 2022, 8 a.m.



The K Street Flats apartment complex at 2020 Kittredge St. was quietly purchased last fall by a housing agency in the Central Valley that converts market-rate apartments to “missing middle” affordable housing. Credit: Kelly Sullivan

The downtown Berkeley apartment complex where six Irish students [died in a 2015 balcony collapse](#) has quietly become part of an emerging and controversial affordable housing strategy.

K Street Flats, the 176-unit development [formerly known as Library Gardens](#), was sold last fall to an obscure public agency based in the Central Valley that pledges to provide housing for workers who are often priced out of expensive cities such as Berkeley.

Called the [California Community Housing Agency](#), or CalCHA, it uses municipal bonds to buy market-rate apartment buildings, then offers rent discounts to make their units affordable to tenants who fall into the “moderate” income range — a category that in Berkeley includes some who make upwards of \$100,000 per year. The agency is one of three joint powers authorities that

have [bought dozens of buildings around the state](#) in recent years to provide “missing middle” homes for teachers, firefighters and others who can’t afford market-rate apartments, but make too much to qualify for lower-income units that are often the focus of efforts to build affordable housing.

“It’s solving for a failure of the market right now to deliver the housing that we wish was getting built,” Ben Metcalf, managing director of the [Turner Center for Housing Innovation](#) at UC Berkeley, said of the agency’s strategy.

The Berkeley City Council [voted to join CalCHA last year](#). As a result, the city could one day own K Street Flats — governments that partner with the agency have the option to acquire its buildings during the latter half of the 30-year bonds used to fund their purchases.

Rents at the 2020 Kittredge St. complex have fallen since the new owners took over. But Metcalf and others say it’s [not always clear that cities get a good deal](#) from their partnerships with CalCHA, because its discounts come at the cost of removing apartment buildings from local property tax rolls.



K Street Flats tenant Alex Merenkov shared this 2021 photo of a partially collapsed floor in another tenant's apartment. Credit: Alex Merenkov

And then there's the question of whether Berkeley should take over one of the city's most notorious buildings — a structure where [defects in the construction of its balconies](#), which led to the deadly collapse, prompted state regulators to [revoke the license of the contractor](#) who built it.

The tragedy also led to new state laws [requiring inspections of balconies](#) and [expanding access to contractor records](#), and a plaque honoring the six people who died in the collapse [now stands in Civic Center Park](#). An informal chalk memorial also occupies a patch of the sidewalk outside K Street Flats, and includes a seventh name — Aoife Beary, who was seriously injured in the 2015 collapse and [died at 27 in January following a stroke](#).

Problems at the complex, which was completed in 2007, have continued over the years, according to long-time tenant Alex Merenkov, who has complained to city officials about a range of issues with the building,

including the partial collapse of another renter's bedroom floor last spring.

“None of us know to what degree this property is going to hold up,” Merenkov said. “If I was the city, I would probably not buy this property.”

New owner cuts rent for moderate-income tenants

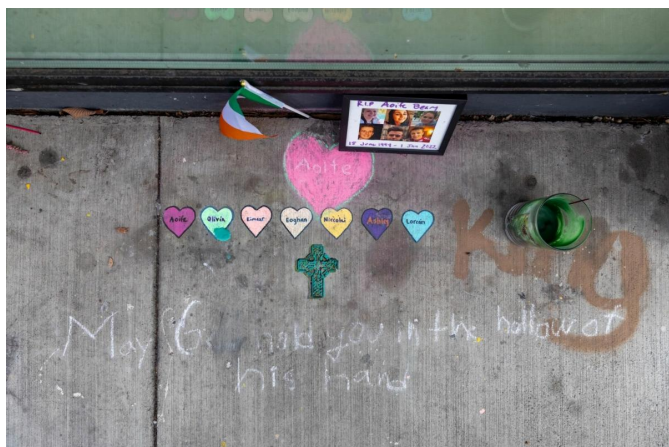
CalCHA is officially part of the government of Kings County, but many of the properties it owns are far from the agency's headquarters in Hanford. Since 2019, it has bought apartment buildings in Larkspur, Sausalito, Dublin, Santa Rosa and other Bay Area cities.

Metcalf said CalCHA and two other entities, the [California Municipal Finance Authority](#) and the [California Statewide Communities Development Authority](#), have emerged as players in the state's housing landscape over the past three years. Their purchases “really took off” in 2021, Metcalf said, when historically low-interest rates made their tax-exempt municipal bonds especially attractive.

CalCHA bought K Street Flats from the real estate investment firm BlackRock, which had owned it since 2007.

The Kings County Board of Supervisors, which functions as the agency's board of directors, approved the deal to buy K Street Flats at an Aug. 31 meeting that lasted less than three minutes; CalCHA announced its purchase in a [one-sentence press release](#) on Oct. 7, stating it had partnered with a firm called [HCF Development](#) to issue \$127 million worth of bonds for the acquisition. [Real estate news website The Registry](#) reported the complex sold for \$100 million.

Current tenants may stay as long as they wish under CalCHA's ownership, and the sale doesn't affect existing below market rate units, which make up 20% of K Street Flats' apartments. As tenants move out and the complex's formerly market rate apartments turn over, though, income caps require that new renters make between 80% and 120% of area median income. Berkeley's area median income is just over \$95,000, so that range covers individuals earning anywhere from \$77,000 to \$115,000 annually.



A small, informal memorial to the victims of the 2015 balcony collapse occupies a patch of pavement outside K Street Flats, the site of the tragedy. A seventh name was added to the memorial when 27-year-old Aoife Beary, who was injured in the collapse, died in January. Credit: Kelly Sullivan

[K Street Flats' website](#) today lists one- and two-bedroom units available to rent from \$2,342 to \$2,999 per month. Two blocks away, studio units at Varsity Berkeley, a complex that opened in 2015, [start at \\$3,200 per month](#); five years ago, [Berkeleyside reported](#) rents at K Street Flats ranged from \$2,995 to \$4,000 per month.

No one from CalCHA or HCF Development, which lists a Washington, D.C., phone number on its website, responded to multiple requests for comment from Berkeleyside.

City of Berkeley officials declined an interview request for this story. But in response to written questions, senior community development project coordinator Mike Uberti described CalCHA's acquisition strategy as a complement to more conventional efforts to build new affordable housing — which can often be a long and expensive process. In 2019, the Bay Area Council Economic Institute estimated that building affordable housing in Alameda County [cost more than \\$700,000 per unit on average](#).

“Typically, it is less costly and takes less time to acquire and convert market rate units to affordable than it does to construct new affordable units,” Uberti wrote in an email.

The challenge for cities such as Berkeley is that state and federal funding sources, which typically help them

build new affordable housing, often can't be used to acquire existing buildings, Uberti said.



Alex Merenkov, a tenant at K Street Flats for over a decade, said he has watched the building deteriorate under several property management companies. Merenkov said he hopes its new owners, the California Community Housing Agency, will be better landlords. Credit: Kelly Sullivan

CalCHA, on the other hand, arranges and finances its own deals, allowing cities to boost their supply of affordable units without having to put up the money to buy or build them. Then, starting in year 16 of the bonds, the city can acquire the property by taking over its outstanding debt — which, according to Uberti, can be paid off with rental income.

“This model is an alternative way to defer costs on a large property that the city could not otherwise acquire with current upfront funding costs and obligations,” he wrote.

Key question: What makes a good deal?

Cities aren't getting affordable housing for free when they partner with CalCHA, however. County records show K Street Flats was assessed more than \$1.4 million in property taxes last year. Now that the building is considered affordable housing, that bill will go down to zero.

A [Forbes investigation into CalCHA's practices](#) last year called attention to its purchases of amenity-rich luxury apartment complexes in other Bay Area cities, questioning “whether the often-modest rent discounts

being offered to middle-income tenants will ever make up for the lost tax revenue.” Joint powers authorities such as CalCHA, Forbes wrote, often function as “shell companies that are run by a handful of financiers and lawyers.” And while the investigation did not specifically examine K Street Flats — which lacks the saltwater pools or yoga studios that attracted scrutiny at other CalCHA buildings — it noted the agency’s deals have netted millions of dollars in fees paid to firms involved in buying and managing its real estate portfolio.

There is little state oversight of CalCHA and other entities like it, Metcalf said, and few standards for evaluating “what makes a good transaction” as they buy up more properties. The question, he said, comes down to whether the rent discounts are deep enough to accomplish the goal of housing middle-income tenants, and are worth forgoing the building’s property tax revenue.

“You want to know that this has some actual benefit,” said Metcalf, who declined to comment specifically on the K Street Flats purchase. “If those rents are now affordable to somebody who is squarely a moderate-income household, that’s pretty encouraging.”

In his written comments, Uberti emphasized the value of K Street Flats’ rent discounts is likely to grow over time.

“This acquisition will allow rents to be tied to incomes rather than the market, which has historically [risen] faster than incomes,” he said.

Still, Metcalf said that for now, “Every city is having to do this public benefit test for themselves.”



Tenant Alex Merenkov pointed out trash and grime in a stairwell at K Street Flats in January. Credit: Kelly Sullivan

As for Merenkov, the K Street Flats tenant, he hopes the new owners can turn the troubled building around — but after more than a decade there, he isn’t optimistic.

Merenkov described Sequoia Equities Incorporated, a Walnut Creek property management firm CalCHA contracted with to manage the complex, as “slightly better” than the revolving door of companies he dealt with in the past, who he accused of harassing him and other below market rate tenants. Still, Merenkov rattled off a long list of complaints about K Street Flats’ condition, ranging from a recurring cockroach problem in his unit to warped floors and poorly secured entryways that allow for package thefts and other problems. Sequoia Equities Incorporated did not respond to multiple requests for comment.

“We haven’t really seen anything happen” since CalCHA bought the building, he said.

Tenants have heard new property managers promise improvement before, Merenkov said, but “we don’t know to what degree that’s a bunch of BS.”

Nico Savidge is Berkeleyside's senior reporter covering city hall. Email: nico@berkeleyside.org. Twitter: NSavidge.