



Rent Stabilization Board

RENT STABILIZATION BOARD
Regular Meeting
Thursday, October 20, 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/89390391286?pwd=LzZlVEh3T0FMWDdGWXdMS1lTZjA2UT09>. 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: 893 9039 1286 and Passcode: 936779. 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, send it to 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, October 20, 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.*

CLOSED SESSION: Pursuant to California Government Code Section 54956.9(a), the Board 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

Andrew Marowitz v. Berkeley Rent Stabilization Board (Alameda County Superior Court Case # RG19042977)

Athan Magganas and Maxaco, LLC v. City of Berkeley Rent Stabilization Board (Alameda County Superior Court Case # 22CV011758)

NCR Properties, LLC v. City of Berkeley (California Court of Appeal, First District, Division Three Case # A163003)

2. Land Acknowledgment Statement: The Berkeley Rent Stabilization Board recognizes that the rental housing units we regulate are built on the territory of xučyun (Huchiun- (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley’s landlords and tenants have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley’s incorporation in 1878 and since the Rent Stabilization Board’s creation in 1980. As stewards of the laws regulating rental housing, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.

3. Approval of Agenda – 1 min.*

4. **Public Comment** – 2 min. per speaker for *non*-agendized items*
5. **Public Comment** – 2 min. per speaker for items on the agenda*
6. **CONSENT ITEMS** – 1 min.*
 - a. Approval of the September 15, 2022 regular meeting minutes
 - b. Recommendation to adopt Resolution 22-23 modifying the Staffing Model to add a 1.0 FTE in the Administrative and Fiscal Services Manager classification (Budget & Personnel Committee and Executive Director)
 - c. Recommendation to adopt Resolution 22-24 authorizing the Executive Director to increase the purchase order with ACRO Service Corp. by an amount not to exceed \$115,500 to hire three temporary staff to assist the Registration Unit with the 3Di data cleanup project (Budget & Personnel Committee and Executive Director)
 - d. Proposal to approve staff recommendations on the following requests for waivers of late registration penalties (Executive Director/Registration Unit Manager)

Ministerial Waivers

Property Address

1219 DWIGHT
1625 HARMON
2924 FLORENCE
2935 MLK JR WAY
2645 SHASTA
2251 HILGARD
2647 STUART
770 HILLDALE
2601 ETNA
1801 DERBY

Discretionary Waivers

Waiver No. Property Address

W5051	1210 PERALTA
W5052	1418 HOLLY
W5053	2226 9TH ST
W5054	2817 8TH STREET
W5055	1708 EOLA ST
W5056	515 COLUSA
W5057	3216 BOISE ST
W5058	1134 KEELER
W5059	2760 MABEL ST

W5060	1350 SCENIC
W5061	2551 HILGARD
W5062	2337 BROWNING
W5063	2325 ROOSEVELT

7. **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-5929 (2208 MLK Jr. Way, #6)

Landlords Yun Mao and Ruihua Xi (“Landlords”), filed an appeal of a hearing decision granting in part and denying in part, Tenant Michael Cohn’s (“Tenant”) Petition for Individual Rent Adjustment (“petition”), seeking a rent ceiling reduction due to certain claimed substantial conditions of the rental unit located at 2208 Martin Luther King Jr. Way, Unit 6, Berkeley, California 94704 (“premises”).

On appeal, Landlords dispute the rent ceiling reductions granted by the hearing examiner for the: (1) mouse infestation, (2) insufficient exterior lighting, (3) low hot water flow, and (4) code violations regarding the exterior deck and staircase. A review of the record shows that the hearing examiner’s decision is supported by substantial evidence. Landlords’ appeal repeats arguments and testimony previously submitted, makes confusing arguments, and calls for resolutions outside the scope of an appeal. The decision of the hearing examiner should be affirmed.

8. **ACTION ITEMS**

from Board Members, Committees, Executive Director or Staff

Public comment will also be heard prior to the Board’s vote on each action item listed below – 1 min. per speaker.

- a. Chair Update (Chair Simon-Weisberg) – 5 min.*
- b. Recommendation to adopt Resolution 22-25 authorizing the Executive Director to modify the scope of the contract with Kinnectics, LLC, and add \$30,000 for the current fiscal year (Budget & Personnel Committee and Executive Director) – 10 min.*
- c. Recommendation to adopt Resolution 22-26 confirming the 2023 Annual General Adjustment (AGA) of 4.4 percent and order that the 2023 AGA be published as Regulation 1145 (General Counsel) – 5 min.*
- d. Recommendation to adopt Resolution 22-27 confirming that the 2023 relocation assistance payments for Owner Move-in and Ellis Act evictions shall increase by 6.8 percent effective January 1, 2023, and publishing the 2023 relocation payment amounts (General Counsel) – 5 min.*

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 Rent Board providing mediation services and technical assistance to the Town of Fairfax – *Verbal* (Executive Director) – 2 min.*
- b. Summary of Ellis Act Evictions through June 1, 2022 (Eviction/Section 8/Foreclosure Committee) – 2 min.*
- c. Owner Move-in Eviction Tracking Report (July 2019 - June 2022) (Eviction/Section 8/Foreclosure Committee) – 2 min.*
- d. Commissioner attendance at Board and Committee meetings updated through the 3rd quarter of 2022 (Board Secretary) – 1 min.*
- e. Rent Board staff to participate in the City of Berkeley’s Harvest Festival/Community Day on Saturday, October 15, 2022 from 11:00 a.m. - 4:00 p.m. in Cedar Rose Park (1300 Rose Street) – *Verbal* (Executive Director) – 1 min.*
- f. September 30, 2022 *Berkeleyside* article by Supriya Yelimeli titled, “Residents return to North Berkeley apartments after local land trust buys back building” (Chair Simon-Weisberg) – 1 min.*
<https://www.berkeleyside.org/2022/09/30/solano-avenue-ellis-act-eviction-north-berkeley>
- g. Date to submit agenda topics/items for November’s regular Rent Board meeting: **Friday, November 4th 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: Monday, Nov. 7th at 5:30 p.m.

October 11th agenda

- b. Eviction/Section 8/Foreclosure Committee (Commissioner Mendonca, Chair) – 5 min.*
Next regularly-scheduled meeting: Thursday, Oct. 27th at 5:30 p.m.

September 22nd agenda

- c. Legislation, IRA/AGA & Registration Committee (LIRA Committee)
(Commissioner Kelley, Chair) – 5 min.*
Next regularly-scheduled meeting: TBA

September 21st agenda

- d. Outreach Committee (Commissioner Laverde, Chair) – 5 min.*
Next regularly-scheduled meeting: Wednesday, Oct. 19th at 5:30 p.m.

September 21st agenda

October 19th 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 Task Force Committee on Housing: City Council/Rent Board – 5 min.*
(Mayor Arreguín and Chair Simon-Weisberg, Committee Co-Chairs)
Next regularly-scheduled meeting: Wednesday, Oct. 26th at 3:00 p.m.

September 28th agenda packet (Revised)

- 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.*

CLOSED SESSION: Pursuant to California Government Code Section 54957(b)(1), the Board will also convene in closed session for a Public Employee Evaluation of Performance:

Title: General Counsel

11. 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.



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RENT STABILIZATION BOARD
Regular Meeting
Thursday, September 15, 2022
7:00 p.m.

Regular Meeting Minutes – *Unapproved*

1. **Roll call** – Chair Simon-Weisberg called the meeting to order at 7:03 p.m. Aimee Mueller called roll.
Commissioners present: Alpert, Chang, Johnson (signed on at 7:09 p.m.), Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg
Commissioners absent: None
Staff present: Brown, Ehlinger, Kim, 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 played aloud.

3. **Approval of Agenda**

M/S/C (Kelley/Laverde) APPROVE THE AGENDA WITH THE FOLLOWING CHANGES: ADJOURN THE MEETING IN HONOR OF HISPANIC AND LATINO HERITAGE MONTH, AND COUNCILMEMBER YING LEE; MOVE INFORMATION ITEM 10.c. TO THE ACTION CALENDAR. Roll call vote.
YES: Alpert, Chang, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg;
NO: None; ABSTAIN: None; ABSENT: Johnson. Carried: 8-0-0-1.

4. **Public Comment** – *non*-agendized items. There were no speakers.

5. **Public Comment** – items on the agenda. “Dan” spoke regarding the Ellis Act.

6. **SPECIAL ORDER OF BUSINESS** – Presentation of honorary resolution to former Rent Board Staff Attorney, Matthew Siegel, for his more than 27 years of service.

Chair Simon-Weisberg read aloud Resolution 22-22 in appreciation of Mr. Siegel’s 27 years of public service at the Rent Board. Prior to the reading of the resolution, Mr. Siegel addressed the Board and the commissioners. The Executive Director and General Counsel expressed their gratitude and admiration for Mr. Siegel’s work.

M/S/C (Simon-Weisberg/Selawsky) MOTION TO ADOPT RESOLUTION 22-22 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. **CONSENT ITEMS**

- a. Approval of the July 21, 2022 regular meeting minutes
- b. Proposal to approve staff recommendations on the following requests for waivers of late registration penalties (Executive Director/Registration Unit Manager)

Ministerial Waivers

Property Address

2390 MCGEE
1922 WOOLSEY
2171 ALLSTON
2130 BROWNING
1730 HIGHLAND #4
3025 DANA ST
2016 9TH
1409 CYPRESS
2803 REGENT
1902-06 RUSSELL

Discretionary Waivers

Waiver No. Property Address

W5050 2918 STANTON

M/S/C (Alpert/Chang) APPROVE ITEMS 7.a. AND 7.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.

8. APPEAL – Case No. T-5946 (2226 7th Street, Unit D)

Appearances:

Gershon Luria, Appellant
Deloris O’Neal, Respondent
Liat O’Neal on behalf of Respondent

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

9. ACTION ITEMS

from Board Members, Committees, Executive Director or Staff

Public Comment on Action Items: There were no public speakers.

Information Item 10.c. was moved to Action by an earlier vote of the Board.

Item 10.c.: M/S/C (Kelley/Laverde) AUTHORIZE AND REQUEST THAT THE EXECUTIVE DIRECTOR SEND A LETTER TO COUNCIL CONVEYING THE BOARD’S SUPPORT FOR THE COMMISSION ON DISABILITY’S DRAFT ELEVATOR ORDINANCE REFERRAL. 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.

- a. Chair Update (Chair Simon-Weisberg) – Chair Simon-Weisberg reminded committee chairs of the importance of holding monthly meetings, and reminded all commissioners to utilize their technology stipend. No action was taken.

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 INFORMATION.**

Information item 10.c. was moved to action by an earlier vote of the Board.

- a. Screening of the film, “Push!” at the Grand Lake Theater in Oakland on September 26, 2022 at 6:30 p.m. – *Verbal* (Chair Simon-Weisberg)
- b. Update regarding Ellis Act prohibition in the Eviction Moratorium and update regarding recent Ellis Eviction cases filed in Berkeley – *Verbal* (General Counsel)

- c. Elevator Ordinance Referral item from the Commission on Disability (General Counsel) – MOVED TO ACTION BY AN EARLIER VOTE OF THE BOARD.
- d. Update on Rent Board staff outreach at National Night Out on August 2, 2022 – *Verbal* (Executive Director)
- e. Update on Rent Board staff outreach at the Solano Stroll on September 11, 2022 – *Verbal* (Executive Director)
- f. July 27, 2022 *Berkeleyside* article by Manuela Tobias titled, “This new website will help you respond to an eviction notice” (Executive Director)
<https://www.berkeleyside.org/2022/07/27/website-california-tenants-eviction>
- g. August 10, 2022 *The Daily Californian* article by Rae Wymer titled, “‘It was pretty brutal’: Tenants share experiences renting in Berkeley” (General Counsel)
<https://www.dailycal.org/2022/08/10/it-was-pretty-brutal-tenants-share-experiences-renting-in-berkeley/>
- h. Date to submit agenda topics/items for October’s regular Rent Board meeting: **Friday, October 7th at 5:00 p.m.** NOTE: This is a hard deadline and will be enforced.

Information Items carried over from the June 16, 2022 regular Rent Board meeting:

- i. April 28, 2022 Owner Move-in Eviction Tracking Report (January 2019 - December 2021) (Eviction/Section 8/Foreclosure Committee & Executive Director) – The Board requested that staff share the Owner Move-in Eviction Report (OMI) more broadly. The Chair asked Eviction/Section 8/Foreclosure Committee Chair Mendonca to add this to the Committee’s next agenda.
- j. Rent Board’s participation in the 35th Annual Berkeley Juneteenth Festival on Sunday, June 19th from 11:00 a.m. to 7:00 p.m. – *Verbal* (Executive Director)
- k. Update on the Rent Board’s presentation at the May 20, 2022 “Rent Stabilization: Lessons Learned from Implementing Rent Stabilization Policies” webinar (Minneapolis/St. Paul) from 9:00 a.m. - 11:00 a.m. Pacific Time – *Verbal* (General Counsel)

11. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget and Personnel Committee (Commissioner Chang, Chair) – Committee Chair Chang reported that the Committee received updates on staffing and registration-related activities at their last meeting.
Next regularly-scheduled meeting: Monday, Sept. 12th at 5:30 p.m.

September 12th agenda

- b. Eviction/Section 8/Foreclosure Committee (Commissioner Mendonca, Chair) – Committee Chair Mendonca said the Committee will consider the question raised tonight about sharing the OMI Evictions report more broadly, and will be following the lawsuit against Alameda County’s eviction moratorium. Next regularly-scheduled meeting: Thursday, Sept. 22nd at 5:30 p.m.

July 28th agenda

- c. Legislation, IRA/AGA & Registration Committee (LIRA Committee) (Commissioner Kelley, Chair) – Committee Chair Kelley stated that the next meeting is September 21. The Committee will start brainstorming agenda items for next year. Next regularly-scheduled meeting: TBA
- d. Outreach Committee (Commissioner Laverde, Chair) – Committee Chair Laverde reported that the tenant survey will be launching soon. Next regularly-scheduled meeting: Wednesday, Sept. 21st at 5:30 p.m.

August 10th 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 Task Force Committee on Housing: City Council/Rent Board – Chair Simon-Weisberg shared the Committee’s next meeting date. The Committee will continue discussions about habitability plans, and receive a housing code update. (Mayor Arreguín and Chair Simon-Weisberg, Committee Co-Chairs) Next regularly-scheduled meeting: Wednesday, Sept. 28th at 3:00 p.m.
- g. Ad Hoc Committee on Rent Board Technology Issues (Commissioner Selawsky, Chair) Next meeting date: TBA
- h. Updates and Announcements – Commissioner Kelley said that Councilmember Hahn’s office has submitted an item to Council proposing a Land Acknowledgement statement. Commissioner Laverde shared that tenant groups from unincorporated areas of Alameda County are holding a work session on September 27 with some county Supervisors on tenant protection measures.
- i. Discussion of items for possible placement on future agenda – Vice-Chair Alpert requested a closed session to receive updates on lawsuits concerning pandemic-related eviction moratoriums. The Chair requested information on the number of

Ellis Act Evictions, and on a particular 16-unit building.

12. ADJOURNMENT

M/S/C (Laverde/Johnson) ADJOURN THE MEETING IN HONOR OF HISPANIC AND LATINO HERITAGE MONTH, AND COUNCILMEMBER YING LEE. 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 8:55 p.m.



Rent Stabilization Board
Office of the Executive Director

DATE: October 20, 2022

TO: Honorable Members of the Rent Stabilization Board

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

SUBJECT: Adding Finance Manager position to Staffing Model

Background

The agency's current staffing model has 25.0 Full-time Equivalent (FTE) career positions. On March 17, 2022, as part of the mid-fiscal year 2022 budget review, the Executive Director and Budget & Personnel Committee discussed the future benefits of adding three (3) new staff positions, including a Finance Manager, a Senior Housing Counselor, and a Digital Education and Social Media Coordinator. The Board's feedback on these potential new positions was positive and staff planned to possibly add one or more of these positions during the Board's mid-fiscal year 2023 budget review.

The recent departure of an Office Specialist II (OS II) in the Registration Unit and the pending retirement of the Accounting Office Specialist III (AOS III) has prioritized the hiring of the Finance Manager to lead a newly created Finance Unit. Adding a Finance Manager now will allow the necessary time for training and knowledge transfer before the AOS III retires and enable the Finance Manager to lead the hiring of a replacement and additional unit staff.

Staff has consulted with the Human Resources Department and recommended that the Board's Finance Manager be created in the Administrative and Fiscal Services Manager classification. This position is typically responsible for the planning and organization of the overall administrative, business services, and fiscal activities of a City department. It serves as a budgetary and financial expert. This description fits perfectly with the duties of the Board's Finance Manager. The salary for this position ranges between \$115,565 - \$147,368 Annually. The complete class specification for the Administrative and Fiscal Services Manager is attached.

The Budget & Personnel Committee reviewed the status of the agency's staffing model and considered the need to add a Finance Manager position at their October 11, 2022, meeting.

Recommendation

The Budget & Personnel Committee and Executive Director recommend that the Board adopt Resolution 22-23 authorizing the addition of a 1.0 FTE Finance Manager to the agency's staffing model. The Finance Manager position would be created in the Administrative and Fiscal Services Manager classification.

Financial Impact

Staff project that adding the Finance Manager position will cost no more than \$120,000 in salary and benefits for the remainder of FY 2023. There are sufficient funds in the uncommitted reserve to cover the costs for the position for the current fiscal year.

Name and Telephone Number of Contact Person:

DéSeana Williams, Executive Director (510) 981-7368

Attachments:

1. Proposed Resolution 22-23 Adjusting Staffing Model to add a Finance Manager position in the Administrative and Fiscal Services Manager classification.
2. Administrative and Fiscal Services Manager Class Specification

RESOLUTION 22-23

ADJUSTING THE FISCAL YEAR 2022-2023 STAFFING MODEL TO ADD A NEW FINANCE MANAGER POSITION IN THE CLASSIFICATION OF ADMINISTRATIVE AND FISCAL SERVICES MANAGER

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

WHEREAS, at its regular meeting on June 16, 2022, the Rent Stabilization Board adopted a staffing model for fiscal year 2022-23 that maintains a staffing level of at least 25.0 career Full-Time Equivalents (FTEs); and

WHEREAS, the Budget and Personnel Committee and the Executive Director continuously monitor the agency's staffing model and the overall capacity throughout the fiscal year; and

WHEREAS, the Budget & Personnel Committee supports the Executive Director's recommendation to create a new Finance Unit that is responsible for all of the agency's financial and budgetary duties, which are currently spread between several different work units; and

WHEREAS, the Budget & Personnel Committee and the Executive Director recommend the Board create a new Finance Manager position to lead its new Finance Unit; and

WHEREAS, the Budget & Personnel Committee and Executive Director have determined, after consulting with staff in the Human Resources Department, that the Finance Manager position should be created in the classification of Administrative and Fiscal Services Manager; and

WHEREAS, the recent departure of an Office Specialist II (OS II) in the Registration Unit and the pending retirement of the Accounting Office Specialist III (AOS III) responsible for many of the agency's financial tasks has added priority to the creation of a Finance Unit; and

WHEREAS, after reviewing the recommendation of the Budget & Personnel Committee and the Executive Director, the Board believes that it is necessary to add a new Finance Manager position and increase the overall staffing level to at least 26.0 career Full-Time Equivalents (FTEs), and

RESOLUTION 22-23

ADJUSTING THE FISCAL YEAR 2022-2023 STAFFING MODEL POSITION DETAIL TO ADD A NEW FINANCE MANAGER POSITION IN THE CLASSIFICATION OF ADMINISTRATIVE AND FISCAL SERVICES MANAGER (Page 2)

WHEREAS, the addition of a Finance Manager projects to cost the agency up to \$120,000 in salary and benefits for the remainder of the fiscal year 2022-23, and there are sufficient funds in the Board's uncommitted reserve to cover these projected costs.

NOW, THEREFORE, BE IT RESOLVED that the addition of a Finance Manager position and the adjustment of the agency's overall staffing level to 26.0 FTEs is hereby adopted for the remainder of the Fiscal Year 2022-2023.

Dated: October 20, 2022

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

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chair
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director



Administrative and Fiscal Services Manager

Class Code:
1002

Bargaining Unit: Public Employees Union,
Local One

CITY OF BERKELEY
Established Date: Dec 8, 2010
Revision Date: Dec 8, 2010

SALARY RANGE

\$55.56 - \$70.85 Hourly
\$4,444.80 - \$5,668.00 Biweekly
\$9,630.40 - \$12,280.67 Monthly
\$115,564.80 - \$147,368.00 Annually

DESCRIPTION:

DEFINITION

Under administrative direction, plans, organizes, directs and supervises the overall administrative, business service and fiscal activities of a City department or large, complex division within a department; serves as a budgetary and financial expert; and performs related work as assigned.

CLASS CHARACTERISTICS

This is an upper-level management classification used in the largest City departments or large divisions within those departments that have well-defined, fully-functioning administrative, fiscal and business service operations staffed by professional and administrative support personnel. Incumbents exercise broad discretion and judgment in the performance of duties and are considered to be fiscal experts with direct responsibility for all budgetary and financial matters within their organization. Other responsibilities may include program planning and evaluation, personnel management and contracts/grants management. Incumbents interact with the City's Budget Office; and are integral members of the department's leadership team playing a major role in fiscal and administrative matters. This class differs from deputy director classifications by the latter's broad involvement and influence over entire departmental activities and mission. It differs from the Senior Management Analyst class in that it is more specialized in financial and budget analysis and by the size and scope of administrative, business service and financial responsibilities.

EXTENDED SALARY RANGE PLACEMENT:

This is an extended salary range classification, and incumbents' advancement in the range is governed by the following characteristics.

Positions that advance up to, but not beyond step E, manage the administrative, business and budgetary activities of more moderate sized departments whose primary mission is providing services directly to the public. Positions at this level may also be used in large divisions (such as Public Health or Mental Health) of large departments with oversight from a Deputy Director or other class that has similar or overlapping management responsibilities. Positions at this level provide supervision over professional and support staff; however,

typically the span of control is not such to support the need for professional-level subordinate supervisors.

Advancement to step F of the extended salary range is reserved for individuals that manage the overall administrative, business service and fiscal functions of the largest City departments with budgets which approximate 15% or more of the City budget (all funds expenditures); or in an independently governed agency such as the Berkeley Public Library. Positions at this level are defined as having extremely complex budgets characterized by a wide-variety of funds, funding sources, capital projects, accounting, payroll, contracts, and may also include the management of facilities and/or personnel management including employee-employer relations. At this level, all administrative, business service and financial functions are in a centralized setting, directly managed by the incumbent and not dispersed among other units or individuals. At this level the organizational structure includes subordinate managers or supervisors in professional classifications.

EXAMPLES OF DUTIES:

The following list of duties is intended only to describe the various types of work that may be performed and the level of technical complexity of the assignment(s), and is not intended to be an all inclusive list of duties. The omission of a specific duty statement does not exclude it from the position if the work is consistent with the class concept, or is similar or closely related to another duty statement.

1. Supervises professional and support staff performing duties in all administrative and business service operations, including budgets, contracts training, payroll, staffing, and accounting; selects, trains, coaches, evaluates, and disciplines staff consistent with established policy;
2. Develops, directs and manages the department budget; performs trend analysis and complex forecasting involving historic, current-year and multi-year review of expenditures and revenues for federal and State funding, enterprise funds, tax funds, special assessment funds and grants to ensure balanced budget and efficient delivery of services;
3. Develops budget and expenditure management procedures; monitors adopted budgets and expenditures; authorizes requests for budget changes; prepares budget projections, justifications, and funding requests;
4. Analyzes budget performance reports, departmental financial transactions and centralized accounting records to resolve discrepancies and procedural problems;
5. Manages contracts, grants and project budgeting; reviews subcontractor budget requests for compliance with federal, State and City guidelines and fiscal accuracy; summarizes findings and makes recommendations to approve payments; conducts or manages complex operational or budgetary projects;
6. Installs practices and procedures to control the budgetary and expenditure process, and instructs others in their use;
7. Oversees a broad scope of departmental administrative functions, such as personnel, facilities maintenance, information technology resource allocation, and operational analysis;
8. Prepares and monitors Requests for Proposal, bid specifications and contracts, and provides significant input into grant oversight and management;
9. Manages and approves all department purchasing requests in compliance with the budget and City purchasing requirements; negotiates with other agencies or vendors on cost items;

10. Prepares complex financial reports for internal and external reporting requirements; provides fiscal and statistical information to policy making officials and advises director on financial implications of staffing, equipment, and capital project decisions; writes and reviews fiscal impacts for Council reports;
11. Attends meetings and conferences; represents the director on various committees; participates in budget sessions, represents the department in all financial matters, including capital projects, grants, information technology, staffing and internal services;
12. Establishes and maintains cooperative and productive relationships with those contacted during the course of work; and
13. Performs related duties as assigned.

KNOWLEDGE AND ABILITIES:

Note: The level and scope of the knowledge and abilities listed below are related to job duties as defined under Class Characteristics.

Knowledge of:

1. Governmental budgeting principles and terminology, fund accounting, financial analysis, and financial forecasting tools, and techniques;
2. Principles and practices of administrative management, including program planning, development, monitoring and evaluation;
3. Contemporary employee management and supervision practices, including selection, training, coaching, evaluation and discipline;
4. Governmental revenue sources and factors that influence revenue and expenditure trends;
5. Laws regulating public fiscal operations; and

Ability to:

1. Plan, develop, and control a comprehensive and complex departmental budget;
2. Plan, direct, review and supervise the work of professional and support staff;
3. Review and analyze complex operational and administrative issues and data; evaluate soundness of methodologies, conclusions, and alternatives, and recommend or adopt effective courses of action;
4. Prepare clear and concise records, reports, correspondence and other written materials, and make clear and convincing oral presentations;
5. Analyze, post, balance and reconcile financial data ledgers and accounts; review and interpret financial reports, transactions, statistical records and legal documents;
6. Manage multiple complex projects at a time and meet short-term deadlines and manage peak workload demands;
7. Exercise sound independent judgment within general policy guidelines;

8. Effectively represent the City in meetings with governmental agencies, boards, commissions, and the public;
9. Establish and maintain effective working relationships with those encountered in the course of work; and
10. Proficiently use work-related computer applications such as Microsoft Windows, Word, Excel, Outlook, database management, and related financial-based and record keeping applications.

MINIMUM QUALIFICATIONS:

A TYPICAL WAY OF GAINING THE KNOWLEDGE AND ABILITIES IS:

Graduation from a four-year college or university with major work in accounting, finance, economics, business or public administration or a closely related field; and five (5) years of professional-level experience preparing and analyzing major operational and/or capital improvement budgets, and exercising fiscal controls. Two of the five years must have included supervisory responsibilities. A Master's degree in one of the above mentioned curricula may be substituted for one (1) year of the non-supervisory experience and is highly desirable. Grants accounting experience is also desirable.

OTHER REQUIREMENTS

Must be able to travel to various locations within and outside the City of Berkeley to meet the program needs and to fulfill the job responsibilities. When driving on City business, the incumbent is required to maintain a valid California driver's license as well as a satisfactory driving record.

CLASSIFICATION HISTORY:

Title: Administrative & Fiscal Services Manager
Classification Code: 1463
Established: 2010-12
FLSA Status: Exempt
Admin Leave / Overtime: Administrative Leave
Representation Unit: M
Probationary Period: 1 Year
Workers' Comp Code: 8810



Rent Stabilization Board
Office of the Executive Director

DATE: October 20, 2022

TO: Honorable Members of the Rent Stabilization Board

FROM: Honorable Members of the Budget & Personnel Committee
DéSeana Williams, Executive Director

SUBJECT: Recommendation to adopt Resolution 22-24 authorizing the Executive Director to increase the purchase order with ACRO Services Corp. to add three (3) additional temporary staff to assist the Registration Unit with the 3Di data cleanup for a total amount not to exceed \$115,500

Recommendation

That the Board adopts Resolution 22-24 authorizing the Executive Director to increase the purchase order with ACRO Services Corp. to add three (3) additional temporary staff to assist the Registration Unit with the 3Di data cleanup for a total amount not to exceed \$115,500.

Background:

The migration of over 40 years of financial and rental history data from the Rent Board's previous Rent Tracking System (RTS) database to the 3Di Inc. Rent Registry was completed in December 2021. During the Fiscal Year (FY) 2023 Registration period, staff identified several examples of inconsistencies with how property and unit information was migrated from RTS to 3Di. These inconsistencies include the following:

- duplicate units
- APNs that have the incorrect site address
- fully-covered units with incorrect rent ceilings
- the wrong number of total units on a property
- properties where the unit status and occupant status do not match up (e.g., unit status is "not available for rent," but occupant status is set at "tenant occupied.").

Staff has begun to address these issues internally, but the scope of this cleanup project is too large for the Registration Unit to complete before the next registration period. To address the critical 3Di data cleanup issues before the FY 2023/24 registration season, staff recommends the Board hire additional temporary workers to assist the Registration Unit with this project.

Adding the additional temporary staff by November 2022 would create sufficient staff capacity to finish the data cleanup before the Registration Unit and 3Di ramp-up for the next registration cycle in the Spring of 2023. Staff estimate that three full-time temporary workers employed for a period of no more than six months would provide the necessary capacity to clean up the data.

Financial Impact

Staff project that adding three (3) proposed full-time temporary workers will cost the agency an additional \$115,500. The Board's capital reserve includes \$137,100 that is earmarked for the RTS replacement project and can be used to increase the existing purchase order with ACRO Services Corp. and hire additional temporary workers.

Name and Telephone Number of Contact Person:

DéSeana Williams, Executive Director (510) 981-7368

RESOLUTION 22-24

AUTHORIZING THE EXECUTIVE DIRECTOR TO INCREASE THE PURCHASE ORDER WITH ACRO SERVICES FOR THREE TEMPORARY WORKERS TO PROVIDE FULL-TIME ASSISTANCE TO THE REGISTRATION UNIT FOR THE 3Di DATA CLEAN UP PROJECT

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

WHEREAS, In June 1980, the City of Berkeley's Rent Board enacted Rent Control Regulations providing various rights for units considered fully covered, then in November of 2020 enacted Measure MM which included single-family homes and provides a limited amount of rights for units that are considered partially covered; and

WHEREAS, following the enacted Rent Control Regulations in 1980 and 2020 have placed more than 36,000 rental units under Berkeley Rent Boards purview, and the need for more advanced and modern software arose that could also hold the capacity of the City's Rental unit data; and

WHEREAS, in October 2020, the Rent Board and 3Di entered into a contract for the new Rent Registry Portal; and

WHEREAS, in December 2021, the Rent Board implemented the new 3Di software and migrated over 40 years of financial and rental data to the new Rent Registry Portal; and

WHEREAS, the completion and success of upcoming Registration Cycles of fully covered and partially covered units will require an aggressive 6-month clean-up project; and

WHEREAS, the process of updating and correcting the incorrect, corrupted, duplicate, and incomplete rental data to ensure proper registration of fully covered units in the new software database will require additional staff time to assist clients as they learn how to use this new system; and

WHEREAS, the Registration Unit will need additional assistance for the 3Di data clean-up project.

WHEREAS, the City of Berkeley currently utilizes ACRO Services Corporation to provide temporary personnel when needed;

NOW, THEREFORE, BE IT RESOLVED that the City of Berkeley Rent Stabilization Board hereby authorizes the Executive Director to increase the purchase order with ACRO Services Corporation for a total amount not to exceed \$115,500 to allow for three full-time temporary staffers to support the Registration Unit during the 3Di data clean-up project.

RESOLUTION 22-24

AUTHORIZING THE EXECUTIVE DIRECTOR TO INCREASE THE PURCHASE ORDER WITH ACRO SERVICES FOR THREE TEMPORARY WORKERS TO PROVIDE FULL-TIME ASSISTANCE TO THE REGISTRATION UNIT FOR THE 3Di DATA CLEAN UP PROJECT

(Page 2)

Dated: October 20, 2022

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

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chair
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: October 20, 2022

TO: Honorable Members of the Rent Stabilization Board

FROM: DeSeana Williams, Executive Director

BY: Amanda Eberhart, Registration Unit Manager

SUBJECT: Request for waiver of late registration penalties

Recommendation:

That the Board approve the attached recommendations.

Background and Need For Rent Stabilization Board Action:

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

Ministerial Waivers

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

Waiver	Property Address	Owner	Penalty Assessed	Penalty Waived	Penalty Imposed
	1219 DWIGHT	EUSTACE-PULLIAM FAMILY TRUST	300.00	300.00	
	1625 HARMON	MENG SUN	700.00	700.00	
	2924 FLORENCE	GANCHIMEG NASAN & SAMBA HUNKHBAYAR	1,000.00	1,000.00	
	2935 MLK JR WAY	DENISE TINSLEY	250.00	250.00	
	2645 SHASTA	ROGER CARR & JANA OLSEN	150.00	150.00	
	2251 HILGARD	SHUJON MAO	334.00	334.00	
	2647 STUART	SABRINA & MARK KABELLA	250.00	250.00	
	770 HILLDALE	FABRICE ROEGIERS	150.00	150.00	
	2601 ETNA	ALAEDDIN HAKAM	3,750.00	3,750.00	
	1801 DERBY	CELIA BLASÉ	1,000.00	1,000.00	
TOTAL			7,884.00	7,884.00	

Financial Impact: Ministerial Waivers

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$7,884.00**.

Discretionary Waivers

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

Waiver	Property Address	Owner	Penalty Assessed	Penalty Waived	Penalty Imposed
W5051	1210 PERALTA	ROSS TAUB	450.00		450.00
W5052	1418 HOLLY	ERIK YAO YU LEUNG	150.00		150.00
W5053	2226 9TH ST	BRIAN CHANG	450.00	450.00	
W5054	2817 8TH STREET	SEETHA ANNAMRAJU & SANTOSH PRANEETH YERRAPRAGADA	300.00		300.00
W5055	1708 EOLA ST	JULIA DANEKAS	250.00	250.00	
W5056	515 COLUSA	SABINA STEINBERG	750.00	750.00	
W5057	3216 BOISE ST	CANAAN MULUNEUH & RUTH MULUNEH	500.00	500.00	
W5058	1134 KEELER	MATT SCHORY	750.00		750.00
W5059	2760 MABEL ST	JANE DOE	450.00	225.00	225.00
W5060	1350 SCENIC	KELLEY HART			
W5061	2551 HILGARD	SHUJON MAO	1,027.00		1,027.00
W5062	2337 BROWNING	GEOFFROY DUBOURG- FELONNEAU	500.00	500.00	
W5063	2325 ROOSEVELT	BEN AND AMELIA NARDINELL	840.00		840.00
TOTAL			6,417.00	2,675.00	3,742.00

Financial Impact: Discretionary Waivers

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$2,675**.

Name and Telephone Number of Contact Person:

DeSeana Williams, Executive Director

Waiver Recommendations
October 20, 2022
Page 4

Rent Stabilization Board
2125 Milvia Street, Berkeley, CA 94704
(510) 981-7368

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5051	Property address: 1210 PERALTA AVE ,	Transferred: 11/05/1993
Exempt units (as of February 2021): None		
Owner(s): ROSS TAUB	Waiver filed by: OWNER	# of Units: 1
Other Berkeley rental property owned: None		

Late payment/penalty history: Since 1993, this property was owner occupied and exempt from the Registration Requirement.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Unaware of Registration Requirement

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2020-21	1	\$0.00	-	\$0.00	\$0.00	\$450.00
Totals				\$0.00	\$0.00	\$450.00

Grounds under Regulation 884(B): (12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090

Good cause claimed by owner: The owner was unaware he had to pay pro-rated fees upon renting out his property.

Recommendation: Staff recommends denying the penalty waiver.

Staff Analysis: This property owner has owned this property since 1993. Between 1993 and May 2020 the status of the property was "owner occupied" and exempt from the Rent Board's registration requirement. In May of 2020 the owner began renting out his home. The owner states in their waiver the following, "I did not know about the requirement to pay pro-rated fees on a previously exempt unit". "I left Berkeley to help my

son and his family in October 2020 and only recently returned. Upon learning of these requirements, I registered and paid the outstanding fee". Per the Rent Board ordinance, it is the responsibility of the property owner to notify the Rent Board within 60 days of any changes to the status of the property.

RECEIVED

JUL 26 2022

Initial: _____
Berkeley Rent Board

Public
CITY OF BERKELEY
RENT STABILIZATION PROGRAM
2125 Milvia Street, Berkeley, CA 94704
PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://rentboard.berkeleyca.gov>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 1210 Feralta Avenue

Owner: Ross Taub

Date of acquisition, if new owner: _____

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

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

I did not know about requirement to pay prorated registration fee on a previously exempt unit. During the COVID lockdown I left Berkeley to help my son and his family Oct 2020 and only recently returned. Upon learning of these requirements, I registered and paid outstanding registration fee. Thank you.

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

Date: 7/25/22 Signature: Ross Taub

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

Email Address: _____

Mailing Address: 3225 Ellis St Berkeley 94703

Phone Number: _____ Fax Number: _____

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

Mr Taub:

As discussed, I will honor your payments for the Fiscal Year 2022/2023 as being on time for July 1st. There are past due fees that are due being that the tenancy for this unit started in 2020. I recommend paying for those as well, meaning that you would pay \$300 to clear those fees (feel free to send a check in the return envelope included). I have also included in the envelope a Waiver Request for the penalties that have been added to this account. It is pretty straightforward, just explain why the fees weren't paid, sign and date and return it back to me. The waiver will go for review by the board, there is a backlog on the waiver process so it will most likely be a few months before a decision is made but as long as you are in the waiver process you won't be charged any additional penalties.

I appreciate your patience and understanding in this matter.

Tyler Duncan

A handwritten signature in black ink, appearing to read 'Tyler Duncan', written in a cursive style.

Office Specialist II

510.981.4908

tduncan@cityofberkeley.info

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5052	Property address: 1418 HOLLY ST BERKELEY	Transferred: 10/19/2010
Exempt units (as of February 2021): None		
Owner(s): ERIK LEUNG	Waiver filed by: OWNER	# of Units: 1
Other Berkeley rental property owned: None		

Late payment/penalty history: Prior to the passing of Measure MM, this property was not required to be registered. There is no payment history to review.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Billing Statement Not Received						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2021-22	1	\$150.00	09/22/2021	\$150.00	\$0.00	\$0.00
Totals				\$150.00	\$0.00	\$0.00

Grounds under Regulation 884(B): (12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090

Good cause claimed by owner: Owner claims not to have received any notification or billing statement from the Rent Board regarding the 22/23 registration fees.

Recommendation: Staff recommends denying the penalty waiver.

Staff Analysis: Rent Board records show, this property owner has owned this single-family home since 2010. After the Rent Board passed Measure MM, 1418 Holly was now a partially covered rental unit that was required to be registered. Unfortunately, the property was not registered by the Measure MM deadline. The waiver submitted by the owner states, "I did not receive any notifications or original billing statement for the

Rent Stabilization Program 2022/2023 fiscal year." Per the Rent Board ordinance, it is the responsibility of the property owner to notify the Rent Board within 60 days of any changes to the status of the property.

2125 Milvia Street, Berkeley, California 94704
TEL: (510) 981-7368 (981-RENT), TDD: (510) 981-6903, FAX: (510) 981-4910
E-MAIL: rent@cityofberkeley.info, INTERNET: www.cityofberkeley.info/rent/

RECEIVED

JUL 11 2022

Initial: _____
Berkeley Rent Board

Public
CITY OF BERKELEY
RENT STABILIZATION PROGRAM
2125 Milvia Street, Berkeley, CA 94704
PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://rentboard.berkeleyca.gov>

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

Property Address: 1418 HOLLY ST, BERKELEY, CA94703

Owner: ERIK YAO YU LEUNG

Date of acquisition, if new owner: N/A

Name & relationship of person filing request, if not owner: N/A

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

I did not received any notification / original billing statement of Rent Stabilization Program 2022/23.

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

Date: 2022-07-08 Signature: 

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

Email Address: erikaccounts@golden.com.hk

Mailing Address: 1/F, 15 Wang Chiu Road, Kowloon Bay, Kowloon, Hong Kong

Phone Number: (852) 2798 3916 Fax Number: (852) 2755 7593

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

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5053	Property address: 2226 9TH ST BERKELEY CA	Transferred: 12/28/2021
Exempt units (as of February 2021): Unit # 2228 9TH ST BERKELEY CA 94710 - OCCC - Owner		
Owner(s): BRIAN CHANG	Waiver filed by: OWNER	# of Units: 2
Other Berkeley rental property owned: 2226 9TH ST BERKELEY CA 94710		

Late payment/penalty history: This owner bought this property 12/26/2021. There is no payment history to review.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: New Owner						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2020-21	2	\$0.00	-	\$450.00	\$0.00	\$450.00
Totals				\$450.00	\$0.00	\$450.00

Grounds under Regulation 884(B): (12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090

Good cause claimed by owner: This is the owner's first property in Berkeley and was unaware of the Rent Ordinance.

Recommendation: Staff recommends waiving the penalty fees.

Staff Analysis: This property owner brought the property 12/26/21. Unfortunately, due to the owners timing of the purchase they would have most likely missed the notifications regarding registering the property during the 21/22 Registration cycle. When the 22/23 registration documents were sent in May 2022, we did receive communication from the owner and the Rent Board was fully able to update the

property records and bring the account current. Also, the owner has owned this property less than one year and qualifies to have their penalties removed by the Executive Director under regulation 804(A). For these reasons, staff recommends waiving the penalties in full.

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RENT STABILIZATION PROGRAM
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PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://www.cityofberkeley.info/rent/>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2226 9th St, Berkeley CA 94710

Owner: Brian Chang

Date of acquisition, if new owner: 12/26/2021

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

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

Hi, I just moved into this property and started renting out the ADU. I registered immediately with the board. The first notice of payment was 6/22 with a \$300 late fee - I did not know I owed a payment already. Thank you for the consideration.

(I do not own any other properties - first acquisition).

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

Date: 6/9/22 Signature: [Signature]

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

Email Address: blchang@gmail.com

Mailing Address: 2228 9th St, Berkeley CA 94710

Phone Number: 650-279-6635 Fax Number: _____

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5054	Property address: 2817 8TH ST C, BERKELEY,	Transferred: 01/01/2018
Exempt units (as of February 2021): None		
Owner(s): SANTOSH YERRAPRAGADA	Waiver filed by: PROPERTY MANAGER	# of Units: 1
Other Berkeley rental property owned: None		

Late payment/penalty history: No payment history to review. This property was registered for the first time with the Rent Board in July 2022.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Manages 11 or more Units

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2020-21	1	\$0.00	-	\$300.00	\$0.00	\$300.00
Totals				\$300.00	\$0.00	\$300.00

Grounds under Regulation 884(B): (6) The landlord requesting the waiver owns or manages 11 or more rental units

Good cause claimed by owner: The property management company forgot to apply for an exemption.

Recommendation: Staff recommends denying the penalty waiver.

Staff Analysis: This property is managed by The Cal Agents Reality. During the 21/22 registration cycle the property management company heard from the owner that this unit would be owner occupied, and not required to register with the Rent Board. The property management company states in their waiver that they "did not notify the Rent Board of this exemption, as they are new and not familiar with the procedures". For the 22/23 registration cycle, the property management company followed up with the owners regarding the owner-occupied status of the unit. At that time, the owners informed the property management company, they would not be returning to the unit. The property management company is asking the Board to waive their penalty fees since they acted in good faith to register the property. Per the Rent Registry Portal, The Cal Agents Reality currently manages 11 properties covering approximately 20 units. These units are a mix

of owner occupied and rented statuses. The Cal Agents Realty managed to correctly register, notify the Rent Board, and exempt those other properties under their purview without incurring penalties. For the reasons outlined above, staff recommends denying the penalty waiver.

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JUL 21 2022

Initial: _____
Berkeley Rent Board

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WEB: <https://rentboard.berkeleyca.gov>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2817 8th St Unit C, Berkeley CA 94710

Owner: Seetha Annamraju & Santosh Praneeth Yerrapragada

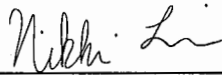
Date of acquisition, if new owner: _____

Name & relationship of person filing request, if not owner: Nikki Lui (The Cal Agents Realty), Property Manager

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

The Cal Agents Realty is the property manager of the property above. When we received the notice to register our rental units in Berkeley we registered all units we manage in the city except for this condo because the owners were thinking of moving back into the unit. Therefore it was determined that the unit was exempted by our team. However it seems like our team failed to apply for an exemption last year as this is a new program and we were not familiar with the procedures. We were notified by the owners this year that they will not be returning to the unit due to a change of their circumstances as much we tried to register them again and were told we are liable for late fees. We hope to have the fees waived as we acted in good faith to register all of our rental units in Berkeley to comply with the law and we had no intention to bypass the registration requirement on purpose. We hope that the late fees could be waived. If you need any additional information please reach out to me directly by phone or email. Thank you for your consideration.

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

Date: 7/19/2022 Signature: 

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

Email Address: PM@thecalagents.com

Mailing Address: The Cal Agents Realty Inc. 2093 Philadelphia Pike, Ste 2828 N, Claymont, DE 19703

Phone Number: 510-899-9221 x700 Fax Number: _____

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

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5055	Property address: 1704 EOLA ST BERKELEY CA	Transferred: 12/29/1992
Exempt units (as of February 2021): Unit # NA - OCCC - Owner		
Owner(s): JULIA M DANEKAS	Waiver filed by: OWNER	# of Units: 2
Other Berkeley rental property owned: 1708 EOLA ST BERKELEY CA 94703		

Late payment/penalty history: In the last 5 fiscal years, this current owner has not paid any registration fees late. However, the previous owner left a balance on the property and in 2019 the current owner paid the Statute of Limitations balance and 50% of the total penalties owed on the property to bring the account current.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Illness						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2021-22	2	\$250.00	08/24/2021	\$250.00	\$0.00	\$250.00
Totals				\$250.00	\$0.00	\$250.00

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

Good cause claimed by owner: The owner is the sole caregiver of her husband who is currently still very ill.

Recommendation: Staff recommends waiving the penalties.

Staff Analysis: In June of the 22/23 registration cycle, the owners husband became very ill and was hospitalized in Santa Rosa where he remains currently. Unfortunately, while taking care of her husband's declining health and trying to manage the registration process, the July 1st deadline was missed. The property owner is her husband's sole caregiver and has also been impacted by a financial hardship. The owner is asking the Board to waive their penalty fees.

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JUL 12 2022

Initial: _____
Berkeley Rent Board

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 1708 Eola St.

Owner: Julia Danekas

Date of acquisition, if new owner: _____

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

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

My childrens Father entered the Hospital June 13, 2022 in Santa Rosa
He was transferred to Broadway Villa for PT & OT on June 25th and
remains there currently. I am the only caregiver available and have
traveled to Santa Rosa & then Sonoma almost daily. In addition I
cared for our 15yr old dog in her last weeks of life. She was put to
sleep on July 2nd at Campus Vet. As my tenants of 18 yrs moved
at end of March I was not able to work for 6 wks due to clean up
and then not able to work due to the hospitalization. So was lacking

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

Date: 7/7/22 Signature: Julia M. Danekas

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

Email Address: 10Kismom45@yahoo.com

Mailing Address: 1704 Eola St.

Phone Number: 510-847-6262 Fax Number: _____

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

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5056	Property address: 515 COLUSA AVE BERKELEY	Transferred: 10/16/1998
Exempt units (as of February 2021): None		
Owner(s): SABINA STEINBERG	Waiver filed by: OWNER	# of Units: 3
Other Berkeley rental property owned: None		

Late payment/penalty history: This owner routinely pays the registration fees late.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Illness						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2020-21	3	\$750.00	08/20/2020	\$750.00	\$0.00	\$750.00
Totals				\$750.00	\$0.00	\$750.00

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

Good cause claimed by owner: The owner was undergoing Breast Cancer treatment during the 20/21 registration cycle.

Recommendation: Staff recommends waiving the penalties for the 20/21 cycle. This owner also has 22/23 penalties from a late payment this current cycle.

Staff Analysis: This property owner has owned this property since 2004. They began renting the property in the 2010/2011 registration cycle. Since that time, the owner has made only one registration payment on time for the 21/22 registration cycle. This owner was also subject to a Rent Board small claims lawsuit in the 13/14 registration cycle. Per the Rent Registry Records, in the 19/20 registration cycle the owner filed bankruptcy and had the \$26,890 balance removed from their account. The owner states in their waiver that at the time of the 20/21 registration cycle, she was "diagnosed with Breast Cancer and undergoing surgery and treatment during May, June, and July 2020". The owner is asking the Board to waive their penalty fees for the 20/21. At the time the owner submitted this waiver, no supporting documents were

attached to confirm the owner's illness claim.

RECEIVED

JUL 07 2022

Initial: _____
Berkeley Rent Board

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WEB: <https://rentboard.berkeleyca.gov>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 515 Colusa Ave, Berkeley CA 94707

Owner: Sabina Steinberg

Date of acquisition, if new owner: _____

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

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

In 2020 I was diagnosed with breast cancer and was undergoing the surgery and treatment in May-June-July of 2020. I was late on my payment that year for that reason. I asked Nick who worked here at that time to waive the late fees and he asked me to fill out the waiver, which I did. He told me they that everything is taken

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

Date: 7/7/2022 Signature: [Signature]

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

Email Address: sabinastein@design@gmail.com

Mailing Address: 515 Colusa Ave Berkeley CA 94707

Phone Number: 510-387-5117 Fax Number: _____

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**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5057	Property address: 3218 BOISE ST BERKELEY	Transferred: 05/05/2022
Exempt units (as of February 2021): Unit # 3216 BOISE ST BERKELEY CA 94702 - OOC - Owner, Unit # A - SEC8-V - Rent Subsidized Tenant		
Owner(s): RUTH & CANAAN MULUNEUH	Waiver filed by: OWNER	# of Units: 4
Other Berkeley rental property owned: 3216 BOISE ST BERKELEY CA 94702		

Late payment/penalty history: In the last five fiscal years, this property owner has not made any late payments.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: New Owner						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY 22-23	0	-	-	\$500.00	-	\$500.00
Totals				\$500.00	\$0.00	\$500.00

Grounds under Regulation 884(B): (12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090

Good cause claimed by owner: New owner unaware of the Rent Registry Requirement

Recommendation: Staff recommends waiving the penalties.

Staff Analysis: This property owner brought the property 5/22/2F. Unfortunately, due to the owners timing of the purchase they missed the notifications regarding registering the property during the 22/23 Registration cycle. When the 22/23 registration documents were sent in May 2022, we did receive communication from the owner and the Rent Board was fully able to update the property records and bring

the account current. Also, the owner has owned this property less than one year and qualifies to have their penalties removed by the Executive Director under regulation 804(A).

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Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 3216 Base St Berkeley, CA

Owner: Canaan muluneh & Ruth muluneh

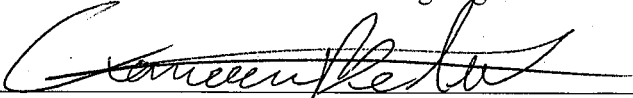
Date of acquisition, if new owner: 5/5/22

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

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

Dear Reader, I understand we are unfortunately late to making our rent registration July 1st payment and I would like to apologize for that. This is my sisters & my first property (and first time Berkeley residents) and so we are still learning how to navigate around all the requirements at Berkeley. I hope you can understand ~~our~~ our position, we actually accidentally stumbled across the rent stabo board (which has been a great resource!). Looking forward to working w/you all!
BEST, Canaan

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

Date: 07/08/22 Signature: 

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

Email Address: muluneh@gmail.com

Mailing Address: 2020 Purcell pl San Jose CA, 95131

Phone Number: 408-637-8552 Fax Number: NA

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5058	Property address: 1134 KEELER AVE	Transferred: 03/22/2018
Exempt units (as of February 2021): Unit # A - OWNUSE - Owner, Unit # 1134 KEELER AVE BERKELEY CA 94708 - OWNUSE - Owner, Unit # B - OOC - Owner		
Owner(s): MATTHEW & EMILY SCHORY	Waiver filed by: OWNER	# of Units: 3
Other Berkeley rental property owned: None		

Late payment/penalty history: In the last 5 fiscal years, this property owner has paid both the 21/22 and 22/23 registration fee late.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Did Not Receive Statement						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY 2021/22	0	-	-	\$750.00	-	\$750.00
Totals				\$750.00	\$0.00	\$750.00

Grounds under Regulation 884(B): (12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090

Good cause claimed by owner: The owner states the Rent Board never mailed their billing statement

Recommendation: Staff recommends denying the waiver.

Staff Analysis: Rent Board records show, this property owner has owned this property since 2018. The owner states in their waiver that he, "never received the original billing statement or the July penalty billing statement" and believes the Rent Board never sent them. For this reason, the property owner is requesting

the Board waive his penalty fees.

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MAR 07 2022

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WEB: <https://www.cityofberkeley.info/rent/>**

Initial: _____
Berkeley Rent Board

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: **1134 Keeler Avenue**

Owner: **Matt Schory**

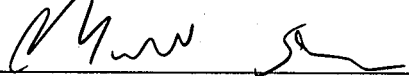
Date of acquisition, if new owner: _____

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

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

I am requesting a waiver of late registration penalties due to the fact that I never received billing statements. The first notice for the year was not sent to me until mid-February. I have historically always paid my registration fees on time and have never had issues receiving mail from the rent board, which leads me to believe that notices (two, since the late fees requested reflect two missed periods) were never actually sent. Additionally, after a tenant buyout filed with the rent board last August, Unit A is no longer a rental unit and has been re-combined with the owner occupied portion of the home.

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

Date: **3/7/2022** Signature: 

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

Email Address: **schory.matt@gmail.com**

Mailing Address: **1134B Keeler Avenue Berkeley, CA 94708**

Phone Number: **847-533-7878** Fax Number: _____

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

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5059	Property address: 2760 MABEL ST, BERKELEY,	Transferred: 06/22/1990
Exempt units (as of February 2021): None		
Owner(s): ██████████	Waiver filed by: OWNER	# of Units: 1
Other Berkeley rental property owned: None		

Late payment/penalty history: This is a Measure MM Property that only registered with the Rent Board in the 22/23 Registration Cycle.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Property owner unaware of Measure MM Requirement

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY 2022/23	1	-	-	\$150.00	-	\$150.00
FY 2021/22	1	-	-	\$300.00	-	\$300.00
Totals				\$450.00	\$0.00	\$450.00

Grounds under Regulation 884(B): (12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090

Good cause claimed by owner: The owner never received any communication from the Rent Board regarding Measure MM and the requirement to register the property.

Recommendation: Staff recommends waiving 50% of the penalties

Staff Analysis: The owner has requested that their name and any identifying information not be made public. This is a Measure MM property. The property owner did not register this property by the Measure MM deadline and failed to pay the 22/23 registration fees on time. The first time the owner reached

out the Rent Board to register their property was July 6, 2022. The property owner states in their waiver that they did not receive the registration statements or notices to register their property under Measure MM.

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JUL 28 2022

Initial: _____
Berkeley Rent Board

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2760 Mabel Street, Berkeley CA 94702

Owner: _____

Date of acquisition, if new owner: _____

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

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

See attached statement.

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

Date: _____ Signature: _____

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

Email Address: _____

Mailing Address: _____

Phone Number: _____ Fax Number: _____

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

[REDACTED]

Attachment to Request for Waiver of Late Registration Penalties

I own a family residence in Berkeley that I lived in for 20 years. I raised my two sons in this house. In 2011, when my wife and I decided to blend our families, we found it necessary to move into a nearby rental because we together had three teenagers, and the 880 square foot bungalow on Mabel Street was too small for our newly configured family. At that time, I decided to rent it out, primarily as a way to keep it for my sons. This is the only property I own in Berkeley. I understood at the time I rented it out that the property—a single family unit—was exempt from any type of registration or fees with the Berkeley Rent Board.

In June 2020, my wife and I moved from my former residence in Oakland, California to my current residence in Sedona, Arizona. I did not know about the existence of Measure MM until the first week of July 2022. I did not receive any correspondence from the City of Berkeley informing me as to the passage of Measure MM. Given that the property had previously been exempt from registration with the Rent Board, I did not have the wherewithal to watch out for any type of notice or billing statement by the Rent Board. And, indeed, because there never before had been a registration of this property as a rental in Berkeley, I suspect no such correspondence from the Rent Board existed. Further, being so far away and in the middle of the Pandemic, we did not engage in many of the informal conversations with friends where we might otherwise have learned of Measure MM.

Once I learned of Measure MM and understood that it covered the Mabel Street property, I began to make calls to the Berkeley Rent Board. My first message to the Rent Board was made on July 6, 2022. I made subsequent calls to the Rent Board on 7/7/22, 7/11/22, and 7/15/22. On 7/15/22, I completed and returned the two forms that were sent to me by an analyst only three hours earlier. Yesterday, on 7/22/22, I received a follow-up phone call from a different analyst asking me to re-send the documents, and who provided me with information necessary to register the property. And today, I am sending in the fee and the Request for Waiver of Late Registration Penalties. I am pointing this time-table out to demonstrate that once informed of my responsibility to register the property, I have been diligent in my actions to do so.

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

Date: 7/22/2022

Signature: [REDACTED]

Request for Waiver of Late Registration Penalties – Information **Please Read Before Completing the Waiver Request**

Note: Before submitting a waiver request, you must pay all outstanding registration fees and file all registration forms

The penalties on your bill are owed under the law. The Rent Board **may** forgive some or all of the penalties when the late payment was not deliberate and the owner acts in “good faith.” Most waivers are processed by staff, based primarily on your past payment history (see Reg. 883*). But under certain circumstances (see Reg. 884*) the Rent Board will review a waiver request to determine what amount, if any, to forgive. In these discretionary reviews the Board is looking at “good cause” and the “totality of the circumstances” to determine an appropriate penalty.

Examples of good cause for a full or partial waiver of penalties include: • *you had a death or illness in the family* • *you are a new owner with no other Berkeley residential rental property* • *you didn't receive the original billing statement* • *you thought that the property or unit was exempt from registration* • *you didn't know about the requirement to pay a prorated registration fee on a previously exempt unit.*

Procedure for Discretionary Waivers: Staff will review your waiver request and make a recommendation to the Board. If a circumstance outlined in Regulation 884 applies, staff will send you a copy of the recommendation about a week before the Board meeting. You may submit a written response to the recommendation. The Board will review the staff recommendation and any response, and issue a decision. You are not required to, but may, attend and address the Board. Staff will mail you the Board's decision, which cannot be further appealed.

Full waiver is granted: The account is cleared, your eligibility for annual general adjustments (AGAs) is restored, and you are deemed in compliance from the date the waiver application was completed.

Partial waiver is granted: The denied amount **must** be resolved within 30 days or the waiver may be rescinded and the full amount of penalties reinstated. While any penalties remain outstanding, the property is considered not registered. This means, among other things, that you may not impose rent increases, may not evict tenants, and may be subject to tenant petitions for rent withholding.

For questions about waivers please call Amanda Eberhart at (510) 981-4904.

Communications Disclaimer:

This document will be included in the Rent Board's agenda packet and, as such, will become part of the City's electronic records, which are accessible through the City's website. This means that any e-mail addresses, names, addresses, and other information you provide 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, please call the Rent Board's Registration Unit at (510) 981-7368 to make that request.

* The referenced regulations can be found at: [Chapter 8: Rent Registration](#)

[REDACTED]
[REDACTED]
[REDACTED]

July 22, 2022

City of Berkeley
Rent Stabilization Program
2125 Milvia Street
Berkeley, CA 94704

Attention: Registration Unit

This is to formally request that my contact information including e-mail address, residential address, and telephone number not be made public.

Sincerely,

[REDACTED]
[REDACTED]

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5060	Property address: 1350 SCENIC AVE,	Transferred: 05/11/2017
Exempt units (as of February 2021): None		
Owner(s): KELLEY HART	Waiver filed by: OWNER	# of Units: 2
Other Berkeley rental property owned: None		

Late payment/penalty history: No payment history to review. This property was registered for the first time in the 22/23 Registration Season.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Unaware of Registration Requirement
--

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
-	-	-	-	-	-	-
Totals				\$0.00	\$0.00	\$0.00

Grounds under Regulation 884(B): (12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090

Good cause claimed by owner: COVID and the ability to work from home allowed the property to owner to relocate. Once they relocated and began renting their property, they were unaware of the Rent Board requirement to register.

Recommendation: Staff recommends denying the penalty waiver.

Staff Analysis: This is a two-unit property the owners of this property have owned since 2017. The owner states in their waiver that in September 2020, they wanted to relocate to Utah and began renting both units of the property. Per the Rent Board Ordinance, property owners have 60 days to notify the Rent Board to any

changes in status of the property which included tenancy. This property owner did not follow the requirements of the Ordinance. The owners are asking the Board to remove the previous years' penalties.

Public
CITY OF BERKELEY
RENT STABILIZATION PROGRAM
2125 Milvia Street, Berkeley, CA 94704
PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://rentboard.berkeleyca.gov>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2.

BERKELEY RENT BOARD
RCVD '22 JUL 30 11:03

Property Address: 1350 Scenic Ave. Berkeley, CA 94708

Owner: Kelley Hart

Date of acquisition, if new owner: May 2017

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

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

Please see attached letter.

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

Date: 7/1/22 Signature: Kelley Hart

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

Email Address: Kelleyhart@dychoo.com

Mailing Address: 1898 Sun Peak Dr., Park City, UT 84098

Phone Number: 310-497-7773 Fax Number: none

} Please do not
make this
information
public

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

To Whom it May Concern,

With this letter I ask that you consider waiving the penalty fees and back payments assigned to me for registering my property with the Berkeley Rent Control Board. I am a new owner with no other Berkeley residential rental property. I never received a billing statement. I came forward in good faith to register and pay this year's fees.

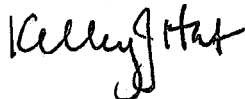
When we (my husband and I) bought and moved into 1350 Scenic Avenue in May of 2017, it already had an in-law unit on the ground floor. We moved into the in-law unit while we were making repairs on the upper levels. Later, at the very beginning of COVID, one of our neighbors needed a place to stay – he'd been living with his daughter and grandchildren while he was remodeling a house in the neighborhood, and when the pandemic began he wanted to get his own place temporarily because he was afraid of catching COVID. He moved into the in-law unit and paid us rent. He planned to stay for six months, but ended up staying for one year. By the time he moved out, we had already moved out of the upstairs. (see below) We decided to rent the in-law unit so we could help to cover the costs of owning the house.

We occupied the upstairs unit from when we purchased it in May of 2017 until mid-September of 2020. Because of the pandemic, we had a new opportunity to work remotely and live in a community with a much lower cost of living. For that and other reasons, we decided to rent out the upstairs unit of our house and temporarily relocate to Utah. We offered prospective tenants a very competitive rental price because we wanted to move to Utah quickly (in time for the new school year), and we only anticipated being gone for one year. We left our furnishings in the house and we picked tenants who were willing to live there for only one year. At the end of the year, they asked to stay for another nine months. Just recently they decided that they want to stay another year. As COVID drags on, we are able to stay in Utah and they want to continue living in the house; so this is now feeling like a formal, long-term rental arrangement. So I did some research and approached the Berkeley Rent Control office to register the units. The upstairs lease starts on July 1, 2022 and we are trying to register this unit and the downstairs unit starting July 1, 2022.

We ask that you consider an approach that incentivizes homeowners to come forward and register their property instead of penalizing them for voluntarily registering their property by charging them for previous years that they didn't even know applied to them. When I approached the rent board a week and a half ago, I had no idea that I would need to put \$1,438 on a credit card today, and was informed that I also owe \$1,876 more in penalties. This year we will already be paying significantly more in taxes, mortgage and insurance than what we are recovering from our tenants in rent.

We try our best to be very good landlords. We are tenants in Utah, so we understand what it means to be tenants and have a responsive, respectful landlord. I have been a tenant all my life except for the few years that I got to live in our Berkeley home.

Thank you for your consideration,



**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5061	Property address: 2551 HILGARD AVE	Transferred: 08/27/2013
Exempt units (as of February 2021): None		
Owner(s): SHUJON MAO	Waiver filed by: OWNER	# of Units: 2
Other Berkeley rental property owned: None		

Late payment/penalty history: In the last 5 fiscal years, this owner has paid the registration fees late 4 times.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Late Last 5 years

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY 2021/22	0	-	-	\$1,027.00	-	\$1,027.00
Totals				\$1,027.00	\$0.00	\$1,027.00

Grounds under Regulation 884(B): (10) The landlord has paid late each year for the prior five years

Good cause claimed by owner: They believed they had a credit.

Recommendation: Staff recommends denying the penalty waiver

Staff Analysis: The waiver submitted by the property owner incorrectly describes why the Board should remove the penalty fees. Per the owner's submitted waiver, he believes the issue with the account is a FY 21/22 credit that was not applied to the account. The rent Board records show in the 21/22 registration cycle, this property owner was only charged for one unit on his property as the other unit was previous exempt. Our records show, the owner overpaid the 21/22 reg fee and penalty, was granted a 45% Administrative waiver and had a \$225 credit on the account. At the beginning of the 22/23 registration cycle, the owner was sent a bill for \$25 dollars. On May 27th, 2022, the property owner changed the status of his exempt unit to non-exempt and was charged pro-rated fees and penalties based on the change in exemption date the owner entered. Those fees remain outstanding on the account. The owner is asking the Board to waive his previous year fee because the account had a credit that was not previously taken into

consideration.

2125 Milvia Street, Berkeley, California 94704
TEL: (510) 981-7368 (981-RENT), TDD: (510) 981-6903, FAX: (510) 981-4910
E-MAIL: rent@cityofberkeley.info, INTERNET: www.cityofberkeley.info/rent/

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

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

BERKELEY, CA

Property Address: 2551-2553 HILGARD AVE.,

Owner: SHUJON MAO

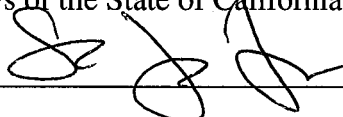
Date of acquisition, if new owner: _____

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

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

I MADE A PAYMENT OF \$500.00 FOR JULY 2021 - JULY 2022 FOR 2 UNITS, 2551 & 2553 HILGARD AVE. I EMAILED AND SPOKE WITH LISA SANDOVAL THAT THIS PAYMENT IS FOR BOTH UNITS. HOWEVER, ONLY \$250 WAS APPLIED & \$250 WAS HELD AS A "CREDIT" SINCE \$250 WAS NOT APPLIED PROPERLY, I'M BEING ASSESSED A PENALTY FOR EVEN THOUGH I ALREADY PAID AND CONTACTED THE RENT BOARD TO CLARIFY WHAT PAYMENT IS BEING MADE.

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

Date: 6/2/2022 Signature: 

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

Email Address: MAO.SHUJON@GMAIL.COM

Mailing Address: 38 3RD ST #301 LOS ALTOS, CA 94022

Phone Number: 510 316-7254 Fax Number: _____

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5062	Property address: 2337 BROWNING ST	Transferred: 05/25/2021
Exempt units (as of February 2021): Unit # 2337 BROWNING ST BERKELEY CA 94702 - NAR - Vacant		
Owner(s): GEOFFROY DUBOURG-	Waiver filed by: OWNER	# of Units: 2
Other Berkeley rental property owned: None		

Late payment/penalty history: No payment history to review.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: The new owner did not own the property at the penalty was assessed.

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
-	-	-	-	-	-	-
Totals				\$0.00	\$0.00	\$0.00

Grounds under Regulation 884(B): (7) The landlord requesting the waiver was not the owner of the property when the penalty first accrued

Good cause claimed by owner: The did not own the property when the penalties were assessed.

Recommendation: Staff recommends waiving the penalties.

Staff Analysis: This property owner brought the property 5/25/21. Unfortunately, due to the owners timing of the purchase they would have most likely missed the notifications regarding registering the property during the 21/22 Registration cycle. When the 22/23 registration documents were sent in May 2022, we did receive communication from the owner and the Rent Board was fully able to update the property records and bring the account current. Also, the owner has owned this property less than one year and qualifies to have their penalties removed by the Executive Director under regulation 804(A). The property owner has already paid all outstanding penalties.

RECEIVED

JUN 21 2022

Initial: _____
Berkeley Rent Board

Public
CITY OF BERKELEY
RENT STABILIZATION PROGRAM
2125 Milvia Street, Berkeley, CA 94704
PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://rentboard.berkeleyca.gov>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2337 Browning Street, 94702 Berkeley, CA

Owner: Geoffroy Dubourg-Felonneau

Date of acquisition, if new owner: 05/25/2021

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

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

First, thank you for working at the Rent Stabilization Program, I truly believe your mission is crucial
for our community. I am a first time buyer (as well of a first gen buyer in the US); a lot of this is new
to me. I purchased 2337 Browning last year and moved alongside with my tenant in September 2021.
I just received a couple days ago a letter stating that there is a consequent penalty on the property,
although I have never received any previous letter from the Rent Stabilization Program and therefore
wasn't aware of the registration fee. Given those circumstances, I would like to ask the waiver of the
penalties associated with my account. Thank you very much for your understanding, Respectfully yours.

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

Date: 06/06/2022 Signature: 

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

Email Address: nycgdf@gmail.com

Mailing Address: 2337 Browning Street, 94702 Berkeley, CA

Phone Number: +1 415 568 0243 Fax Number: _____

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

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5063	Property address: 2325 ROOSEVELT AVE	Transferred: None
Exempt units (as of February 2021): None		
Owner(s): AMELIA NARDINELLI	Waiver filed by: PROPERTY MANAGER	# of Units: 2
Other Berkeley rental property owned: None		

Late payment/penalty history: This property was registered for the first time in October 2021. No payment history to review.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Soft Story						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2020-21	2	\$0.00	-	\$840.00	\$0.00	\$840.00
Totals				\$840.00	\$0.00	\$840.00

Grounds under Regulation 884(B): (12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090

Good cause claimed by owner: The owners were in the process of moving and had not found tenants yet. For this reason, the property manager would like the penalty fees removed.

Recommendation: Staff recommends denying the penalty waiver for failure to pay the prorated registration fees within the 60-day deadline per the Rent Board Ordinance.

Staff Analysis: This waiver was originally scheduled to be heard at the July 2022 Board meeting. In the initial waiver signed and submitted under penalty of perjury, the property manager states, in September 2021, the property owners were moving from the property, and a new property manager was in the process

of being on-boarded". The first notice the property manager received and responded to from the Rent Board was the January 2022 penalty statement. We received the first communication from the property manager in April of 2022 when she also submitted a waiver for the penalties on the account. At the time of the initially signed waiver, the property manager requested the Board to remove the penalty fees, "since the owners had moved out but they had not found a tenant and had just started managing the property". When the Registration Unit Manager began researching the property and reviewing the waiver for the Board's consideration; staff designated the waiver as Ministerial because the initial explanation provided by the property manager did not align with a discretionary category for the Board to hear.

While researching this property, staff found and recommended to the Executive Director: This property owner currently owns two properties in the City of Berkeley since 2006 and 2012. 2325 Roosevelt was registered for the first time in October 2021. The property owner was charged a pro-rated fee for those units which they were required to pay within 60 days of registering. Rent Board records indicate no payment was received within that 60-day time frame. In January 2022 the account was charged an additional penalty for nonpayment of the 21/22 prorated registration fees. As noted in the wavier, In the 21/22 registration season the primary owners moved and hired a new property manager. Unfortunately, through this transition, the registration fees were not paid and both July and January penalties were applied to the account. For the reasons listed above, staff recommends the waiver be denied. The Executive Director agreed and notification to the property manager of the preliminary decision was sent.

At the July 21st, Board meeting the property owners attended the meeting and made verbal statements to the Board presenting a different case than what was stated on their signed waiver submitted by the property manager. In light of these new circumstances, the Board agreed to pull the ministerial waiver from the July meeting and hear it as a discretionary waiver at a different meeting once the owners provided the following information listed below for the Board's review:

- a number, name or department at the City of Berkeley you tried to contact or spoke to when you tried to pay your registration fees?
- Any copies of emails sent to the Rent Stabilization Board email inboxes requesting a PIN/APN that were not responded to by staff?

Following the July Board meeting, the Registration Unit Manager has tried over the last 60 days to request the additional documents from the property owner and property manager. To date, none of the requested items have been provided to staff for the Board's review. While in communication with the property owner regarding the additional requested items and waiver he presented a new claim for the removal of the penalties because, "They [Rent Board] never supplied any follow up or PIN. The ball was in their court". This statement is incorrect, the Rent Board's ordinance places responsibility of property registration on the property owner, and the new Rent Registry Portal sends the PINs automatically to verified email addresses or PINs can be requested from any of the Rent Board's public email inboxes as they are checked daily by staff.

Unfortunately, at this time both the property manager and property owner have not provided the additional documents requested for the Board's review.

RECEIVED

JUN 21 2022

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

Initial: _____
Rent Board

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

2325 Roosevelt Ave

Property Address: _____

Owner: Ben and Amelia Nardinelli _____

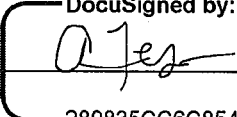
Date of acquisition, if new owner: _____

Name & relationship of person filing request, if not owner: Annie Tegner, East Bay Abodes, Property manager _____

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

The owners, Ben and Amelia Nardinelli, were in the process of moving when this bill came due. I began managing the property on their behalf in September of 2021. I just received a bill showing registration fees were due with the \$840 penalty in April of 2022. I believe the penalties should be waived since the owners had moved but we had not yet found a tenant or began managing the property when this bill was due. This is my first notice i received.

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

Date: 04/14/2022 Signature:  _____
DocuSigned by: 289835CC6C854A5

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

Email Address: annie@eastbayabodes.com _____

Mailing Address: 1250-A Fairmont Dr #753, San Leandro, CA 94578 _____

Phone Number: 510-396-1377 Fax Number: _____

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



Rent Stabilization Board
Office of the Executive Director

DATE: October 20, 2022

TO: Honorable Members of the Rent Stabilization Board

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

SUBJECT: Recommendation to adopt Resolution 22-25 authorizing the Executive Director to modify the scope of the existing contract with Kinnectics, LLC, and to add an additional \$30,000 to the contract for fiscal year 2022-23

Recommendation

That the Board adopt Resolution 22-25 authorizing the Executive Director to execute a contract modification with Kinnectics, LLC in an additional amount not to exceed \$30,000 (bringing the contract total to \$75,000) and to amend the contract scope to include support for the Board's annual evaluations of the Executive Director and General Counsel positions, a commissioner training for Board members, and the continuance of support for the Executive Director and Senior Staff with the agency's ongoing organizational change effort.

Background and Need for Rent Stabilization Board Action

On September 17, 2020, the Rent Stabilization Board authorized the Acting Executive Director to execute a contract with the Centre for Organization Effectiveness (the Centre) to facilitate strategic support for the upcoming executive leadership transition for a total amount not to exceed \$16,000. Keren Stashower, the former consultant for the Centre, completed an executive transition assessment and presented her findings to staff on March 17, 2021, and to the Board at its regular March 21, 2021, meeting for both comment and input.

Ms. Stashower needed more time to complete and present the assessment, so the Board added \$5,000 in payment to account for these extra hours. The Board thereafter contracted directly with Ms. Stashower's business, Kinnectics, LLC, to provide additional support to the agency.

The executive transition assessment was presented to the Board and identified six areas of focus for hiring a new, permanent Executive Director. The following three areas were identified as existing agency strengths: 1) Board development and support, 2) Protection and implementation of the Rent Stabilization Ordinance, and 3) Rent Stabilization Board advocacy. Three final areas were identified for potential agency growth/improvement: 1) Internal structure and processes, 2) Strategy and direction, and 3) People engagement and development. While these areas were identified to inform the recruitment of a new Executive Director, staff continued to work regularly with Ms. Stashower since the initial assessment to ensure forward and positive progress toward improving the agency.

On December 16, 2021, the Board authorized an additional contract modification with Ms. Stashower's business, Kinnectics, LLC, so she could continue to support the agency as it looks to build on its current strengths and work on the areas for growth identified in the executive transition assessment.

Staff and the Board have been pleased with Ms. Stashower's work and have requested her consultation and assistance with developing the Board's evaluation process for the Executive Director and General Counsel positions.

The Budget & Personnel Committee and Executive Director also recommend that the Board utilize Ms. Stashower's services to assist in organizing commissioner training for elected Board members.

Finally, the Budget & Personnel Committee recommends the Board add additional money to Ms. Stashower's contract so she can continue to support the Executive Director and Senior Staff with the agency's ongoing organizational change effort, as well as to consult with staff as it continues to address growth areas identified in the executive transition assessment.

A more detailed breakdown of the cost proposal for these items included as the second attachment to this report.

Financial Impact

The Board has dedicated sufficient funds in its FY 2022/23 budget to allocate an additional \$30,000 for a contract modification with Kinnectics, LLC.

Name and Telephone Number of Contact Person

DéSeana Williams, Executive Director (510) 981-7368

Attachments:

1. Current Personal Services Contract with Kinnectics, LLC
2. Kinnectics, LLC Contract Scoping Projections
3. Proposed Resolution 22-25

VITAL RECORD

AMENDMENT TO CONTRACT

THIS CONTRACT AMENDMENT is entered into on **December 17, 2021**, between the **CITY OF BERKELEY RENT STABILIZATION BOARD** ("Board"), an agency in a Charter City organized and existing under the laws of the State of California, and **Kinnectics, LLC** ("Contractor"), a corporation doing business at 10293 Rue Cannes, San Diego, CA 92131.

WHEREAS, Board and Contractor previously entered into **Contract Number 32200060**, dated, June 15, 2021, which Contract was authorized by the City of Berkeley Rent Stabilization Board Resolution No. 21-10 for a total contract amount not to exceed \$25,000; and

WHEREAS, on December 16, 2021, by Resolution No. 21-31, the Board authorized amendment of said contract as set forth below.

THEREFORE, Board and Contractor mutually agree to amend said contract as follows:

1. The first paragraph of Exhibit B of the original Contract is amended to read as follows:

PAYMENT

This project shall be billed and paid for on the payment schedule below. Any charges in addition to those outlined in this scope that result from Client requests will be billed on the first subsequent installment. Support requested by the Board that extends beyond the scope of this proposal will be billed at an hourly rate of \$320. Additional materials and expenses, if any, will be billed at cost.

Payment Schedule		
Installment	Date	Amount
1 of 6	June 15, 2021	\$15,000
2 of 6	September 1, 2021	\$5,000
3 of 6	October 1, 2021	\$5,000
4 of 6	December 17, 2021	\$10,000
5 of 6	March 1, 2022	\$5,000
6 of 6	Upon Completion of Work	\$5,000

The amount paid to Contractor for services provided shall not exceed **\$45,000**.

In all other respects, the contract dated June 15, 2021 shall remain in full force and effect.

IN WITNESS WHEREOF, Board and Contractor have executed this Contract as of the date written on the first paragraph of this Contract.

CITY OF BERKELEY
RENT STABILIZATION BOARD



DeSeana Williams, Executive Director

THIS CONTRACT HAS BEEN
APPROVED AS TO FORM BY
BOARD'S LEGAL STAFF:



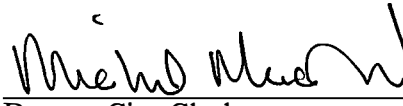
Matt Brown, General Counsel

Registered on behalf of the City Auditor by:



Finance Department

Attest:



Deputy City Clerk
ASST.

CONTRACTOR:

**Keren Stashower, Owner/Principal Consultant
Kinnectics, LLC**

Name and Title



Signature

EXHIBIT B

PAYMENT

This project shall be billed and paid for on the payment schedule below. Any charges in addition to those outlined in this scope that result from Client requests will be billed on the first subsequent installment. Support requested by the Board that extends beyond the scope of this proposal will be billed at an hourly rate of \$320. Additional materials and expenses, if any, will be billed at cost.

Payment Schedule		
Installment	Date	Amount
1 of 6	June 15, 2021	\$15,000
2 of 6	September 1, 2021	\$5,000
3 of 6	October 1, 2021	\$5,000
4 of 6	December 17, 2021	\$10,000
5 of 6	March 1, 2021	\$5,000
6 of 6	Upon Completion of Work	\$5,000

The amount paid to Contractor for services provided shall not exceed **\$45,000**.



City of Berkeley
Rent Stabilization Board
CONTRACT SCOPING PROJECTIONS

Item	Tasks	Projected Costs
Executive Director and General Counsel evaluations for 2022 and 2023	Process support (updating evaluation items and competencies, survey, results analysis, facilitation, and support to Board Chair/Board)	\$ 15,000.00
Board Training	Training discussions with Chair, other trainers and ED, design, and preparation Delivery x2	\$ 5,000.00
Leadership thought partnership, planning and facilitation	Related to culture development workshop and implementation over 12 months	\$ 10,000.00
TOTAL		\$ 30,000.00

RESOLUTION 22-25

AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT MODIFICATION WITH KINNECTICS, LLC, TO AMEND THE CONTRACT SCOPE AND INCREASE THE CONTRACT BY AN AMOUNT NOT TO EXCEED \$30,000

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

WHEREAS, the previous permanent executive director, who had held that position since 2002, retired from the Berkeley Rent Board in April 2020; and

WHEREAS, the Board and staff alike expressed an interest in reviewing the Board's workplace culture to determine what type of leader the Board ultimately hired; and

WHEREAS, the Board involved staff in this process so that there would be a shared understanding between staff and the elected Commissioners regarding what is expected from the new executive director; and

WHEREAS, Keren Stashower ("Contractor") has provided training and support services for a number of City and Board staff for many years; and

WHEREAS, Board staff have been very impressed with the Contractor's ability to increase organizational capacity in a wide variety of leadership and management areas; and

WHEREAS, the Board engaged in a process with the Contractor to assess key components of the executive transition to ensure that the new executive director possessed the competencies and attributes necessary to lead the agency into the future; and

WHEREAS, the Board, on September 17, 2020, authorized the Acting Executive Director to enter into a contract with the Contractor to complete an executive transition assessment for a total amount not to exceed \$16,000; and

WHEREAS, the Board entered into a contract with the Centre for Organization Effectiveness on October 15, 2020; and

RESOLUTION 22-25

AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT MODIFICATION WITH KINNECTICS, LLC, TO AMEND THE CONTRACT SCOPE AND INCREASE THE CONTRACT BY AN AMOUNT NOT TO EXCEED \$30,000 (Page 2)

WHEREAS, Contractor, formerly a consultant with the Centre for Organization Effectiveness, completed an executive transition assessment and presented findings to staff on March 17, 2021, and to the Board at is March 21, 2021, meeting for both comment and input; and

WHEREAS, the Board authorized additional funding of \$5,000 to complete work related to the organizational assessment; and

WHEREAS, the Rent Stabilization Board was pleased with the Contractor's work and hired her directly through her business, Kinnectics, LLC, to complete work related to the organizational assessment; and

WHEREAS, the Rent Stabilization Board further contracted with Kinnectics, LLC for an additional \$20,000 to assist the agency with additional organizational improvement efforts, strategic planning, and addressing growth opportunities identified in the executive transition assessment through Fiscal Year (FY) 2021/22; and

WHEREAS, the Board, on December 16, 2021, authorized the Executive Director to execute a contract modification with Kinnectics, LLC for an additional \$20,000 to provide further consultation and support of the agency's ongoing change initiatives; and

WHEREAS, the Budget & Personnel Committee and Executive Director has recommended that the Board further engage Kinnectics, LLC to aid with the development of the Board's evaluation process for the Executive Director and General Counsel positions, to assist in organizing commissioner training for elected Board members, and to continue support of the Executive Director and Senior Staff related to the agency's ongoing organizational change effort,

RESOLUTION 22-25

AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT MODIFICATION WITH KINNECTICS, LLC, TO AMEND THE CONTRACT SCOPE AND INCREASE THE CONTRACT BY AN AMOUNT NOT TO EXCEED \$30,000 (Page 3)

as well as to consult with staff as it continues to address growth areas identified in the executive transition assessment; and

WHEREAS, the Budget & Personnel Committee and the Executive Director estimate that this additional scope of work will cost a total amount not to exceed \$30,000; and

NOW, THEREFORE, BE IT RESOLVED that the City of Berkeley Rent Stabilization Board hereby authorizes the executive director to execute a contract modification with Kinnectics, LLC, to amend the contract scope and increase the contract by an amount not to exceed \$30,000 (total contract amount not to exceed \$75,000).

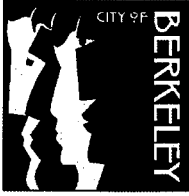
Dated: October 10, 2022

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

YES:
NO:
ABSTAIN:
ABSENT:

Leah Simon-Weisberg, Chair
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director




Rent Stabilization Board

MEMORANDUM

DATE: October 20, 2022

TO: Honorable Members of the Berkeley Rent Stabilization Board

FROM: Matt Brown, General Counsel 

SUBJECT: 2023 ANNUAL GENERAL ADJUSTMENT STAFF REPORT

Recommendation

That the Board adopt Resolution 22-26 to publish and publicize that, pursuant to Berkeley Municipal Code section 13.76.110, the annual general adjustment (AGA) of rent ceilings for 2023 is an upward adjustment of **4.4%**.

I. Background

Section 11 of the Rent Stabilization Ordinance, codified at Berkeley Municipal Code (B.M.C.) section 13.76.110, provides for an annual general adjustment of rent ceilings for rental units covered by the Ordinance. From 1980 through 2004, Section 11 required the Rent Board to annually enact a general adjustment formula based on a survey of typical changes in apartment operating and maintenance costs. At the November 2004 general municipal election, the voters substantially amended Section 11 of the Ordinance so that now each year's AGA is set as a fixed percentage of the prior fiscal year's increase in the Consumer Price Index.

II. Computing AGA in Accordance with Berkeley Municipal Code Section 13.76.110.A.

As amended, B.M.C. section 13.76.110.A now mandates that, effective January 1st of each year, the rent ceiling for all rental units covered by the Rent Stabilization Ordinance, except those for which the landlord established an initial rent during the prior calendar year, shall be adjusted by 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30. In determining the allowable percentage rent increase, numbers of .04 and below shall be rounded down to the nearest tenth decimal place and numbers of .05 and above shall be rounded up to the

nearest tenth decimal place. In no event shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%). The Rent Board is required to publish and publicize the annual general adjustment on or about October 31st of each year.

The U.S. Department of Labor, Bureau of Labor Statistics, has reported that for the twelve-month period ending June 30, 2022, the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose region increased from 309.497 to 330.539, an increase of 21.042 points. Thus, the relevant CPI from June 2021 (309.497) to June 2022 (330.539) has increased by 6.8%.¹ (See Attachment 1.) Under Berkeley Municipal Code section 13.76.110.A, the AGA for 2023 is **4.4%** (i.e., 65% of 6.8 = 4.42 rounded to the nearest tenth decimal place).

Accordingly, effective January 1, 2023, the 2022 rent ceilings for all controlled rental units, except those for which an initial rent was established between January 1, 2022 and December 31, 2022, shall be increased by **4.4%**.

III. Conditions for Taking the Annual General Adjustment

An upward general adjustment in rent ceilings does not automatically provide for a rent increase and a landlord must meet the conditions for qualifying to take the AGA.

Allowable rent increases pursuant to an AGA become effective only after the landlord gives the tenant at least 30 days written notice and the notice period expires. (B.M.C. §13.76.110.B.) Moreover, if the maximum allowable rent specified under the Rent Ordinance is greater than the rent specified for the unit in a rental agreement, the lower rent specified in the rental agreement is the maximum allowable rent until the rental agreement expires. If the maximum allowable rent specified under the Ordinance is less than the rent specified in the rental agreement, the lower rent specified under the Ordinance is the maximum allowable rent. (B.M.C. §13.76.110.C.)

The Rent Ordinance further provides that no rent increase pursuant to an AGA shall be effective if the landlord:

1. Has continued to fail to comply, after order of the Board, with any provisions of the Rent Ordinance and/or Board orders or regulations;
2. Has failed to bring the rental unit into compliance with the implied warranty of habitability;
3. Has failed to make repairs as ordered by the housing department of the City of Berkeley; or
4. Has failed to completely register the rental units as required by B.M.C. §13.76.080.

Each of the conditions for taking an AGA are traditionally incorporated into the text of the AGA order.

¹ While the actual difference is 6.799%, it has been the Board's practice to base the 65% calculation on the CPI percentage increase rounded to the nearest tenth decimal place.

IV. Staff Review

Staff has reviewed the Consumer Price Index figures published by the U.S. Department of Labor, Bureau of Labor Statistics and confirms that, pursuant to Berkeley Municipal Code section 13.76.110.A, the 2023 AGA is an increase of **4.4%**. Staff recommends that the Board adopt Resolution 22-26 to publish the 2023 AGA as Regulation 1145 and to direct staff to publicize the 2023 AGA in a manner reasonably calculated to notify all affected persons of the terms of the 2023 Annual General Adjustment no later than November 30, 2022.

Attachments

1. U.S. Department of Labor, Consumer Price Index, All Urban Consumers (CPI), San Francisco-Oakland-San Jose, CA., All items, June 2019 - June 2022.
2. Proposed Resolution 22-26 Confirming that the 2023 Annual General Adjustment Increases Rent Ceilings by **4.4%** and Publishing the 2023 AGA as Regulation 1145.
3. Proposed 2023 Annual General Adjustment (AGA) Order – Regulation 1145.



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Change Output Options: From: 2019 To: 2022

 include graphs include annual averages[More Formatting Options](#)

Data extracted on: July 13, 2022 (12:53:15 PM)

CPI for All Urban Consumers (CPI-U)

Series Id: CUURS498SA0

Not Seasonally Adjusted

Series Title: All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted

Area: San Francisco-Oakland-Hayward, CA

Item: All items

Base Period: 1982-84=100

Download: .xlsx

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2019		291.227		294.801		295.259		295.490		298.443		297.007	295.004	293.150	296.859
2020		299.690		298.074		300.032		300.182		301.736		302.948	300.084	299.109	301.059
2021		304.387		309.419		309.497		311.167		313.265		315.805	309.721	306.724	312.718
2022		320.195		324.878		330.539								323.408	

12-Month Percent Change

Series Id: CUURS498SA0

Not Seasonally Adjusted

Series Title: All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted

Area: San Francisco-Oakland-Hayward, CA

Item: All items

Base Period: 1982-84=100

Download: .xlsx

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2019		3.5		4.0		3.2		2.7		3.0		2.5	3.3	3.7	2.9
2020		2.9		1.1		1.6		1.6		1.1		2.0	1.7	2.0	1.4
2021		1.6		3.8		3.2		3.7		3.8		4.2	3.2	2.5	3.9
2022		5.2		5.0		6.8								5.4	

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RESOLUTION 22-26**CONFIRMING THAT THE 2023 ANNUAL GENERAL ADJUSTMENT (AGA) INCREASES RENT CEILINGS BY 4.4 PERCENT AND ORDERING THAT THE 2023 AGA BE PUBLISHED AS REGULATION 1145**

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

WHEREAS, Section 11 of the Rent Stabilization Ordinance, codified as Berkeley Municipal Code section 13.76.110, mandates that effective January 1st of each year, the rent ceiling for all rental units covered by the Ordinance for which the landlord did not establish an initial rent during the prior calendar year shall be adjusted by 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending the previous June 30; and,

WHEREAS, the U.S. Department of Labor, Bureau of Labor Statistics, has reported that the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region for the twelve-month period ending June 30, 2022, has increased by 6.8 percent from 309.497 to 330.539; and,

WHEREAS, 65 percent of 6.8 percent results in an upward adjustment of 4.4 percent, when rounded as required by Berkeley Municipal Code section 13.76.110; and,

WHEREAS, Berkeley Municipal Code section 13.76.110 mandates that the Rent Board publish and publicize the annual general adjustment on or about October 31st of each year,

NOW, THEREFORE BE IT RESOLVED by the Rent Stabilization Board that the 2023 Annual General Adjustment of 4.4% shall be published as Rent Board Regulation 1145 and that Rent Board staff shall publicize the 2023 Annual General Adjustment in a manner reasonably determined to notify all affected persons of the terms of the 2023 Annual General Adjustment no later than November 30, 2022.

Dated: October 20, 2022

Adopted by the Rent Stabilization Board by the following vote:

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chairperson
Rent Stabilization Board

Attest: _____
DeSeana Williams, Executive Director

1145. ANNUAL GENERAL ADJUSTMENT ORDER FOR 2023

(A) In accordance with Section 11 of the Rent Stabilization and Eviction for Good Cause Ordinance as amended and Board Regulation 1100, the Rent Stabilization Board hereby adjusts the Year 2022 Rent Ceilings (exclusive of temporary increases in rent ceilings) upward by 4.4% for all rental units covered by the Ordinance, except those rental units for which an Initial Rent was established pursuant to the Costa-Hawkins Rental Housing Act on or after January 1, 2022.

The Year 2022 Rent Ceiling is defined as the Base Rent Ceiling established in Section 10 of the Ordinance or, for units where an Initial Rent was established between January 1, 1996 and December 31, 2021, the last Initial Rent established pursuant to the Costa-Hawkins Rental Housing Act, plus any adjustment of the Base Rent Ceiling granted by the Board.

(B) The adjustment granted by this Order shall become effective on January 1, 2023, provided the landlord is otherwise entitled to the adjustment pursuant to the provisions of the Ordinance and this Order. The rent ceiling adjustment granted herein shall not apply to the rent ceiling of any rental unit for which an Initial Rent was established pursuant to the Costa-Hawkins Rental Housing Act on or after January 1, 2022.

(C) Rent Ceilings adjusted pursuant to this Order may not be rounded to the nearest dollar amount.

(D) The upward general adjustment granted in this Order does not automatically provide for a rent increase. Rent increases pursuant to this Order shall become effective only after the landlord gives the tenant(s) at least thirty (30) days' prior written notice of such rent increase and the notice period expires.

Each notice to a tenant of a rent increase pursuant to this Order shall be in the following form and contain the following information:

Thirty-Day Notice of Rent Increase

This notice is provided pursuant to the 2023 Annual General Adjustment (AGA) Order of the Rent Stabilization Board.

Tenant's name: _____

Street address: _____ Unit No. _____

The present rent on your unit is \$ _____ per month.

[The 2023 AGA Order adjusts 2022 rent ceilings by 4.4%]

Your rent will increase by \$ _____ pursuant to the 2023 AGA Order.

Your new rent will be \$ _____ per month beginning _____. (This date must be at least 30 days after service of the Notice of Rent Increase.)

Advice concerning this Notice and the rental history of the unit is available from the Rent Stabilization Board Public Information Unit, 2125 Milvia Street, Berkeley, CA 94704, from 9:00 a.m. to 2:00 p.m., Monday, Tuesday, Thursday and Friday, telephone (510) 981-7368.

Date

Landlord/Manager

(E) Landlords are not required under the Ordinance and/or this Order to increase rents at all or by the full amount of the general adjustment granted in this Order.

(F) If the maximum allowable rent specified under the Ordinance for a rental unit is greater than the rent specified for such unit in the rental agreement, the lower rent specified in the rental agreement shall be the maximum allowable rent until the rental agreement expires. If the maximum allowable rent specified under the ordinance for a rental unit is less than the rent specified for such unit in the rental agreement, the lower rent specified under this chapter shall be the maximum allowable rent.

(G) No rent increase pursuant to this Order shall be effective if the landlord:

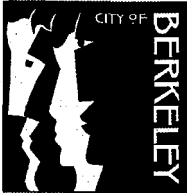
(1) Has failed to register any rental unit on the property in accordance with Section 8 of the Ordinance and/or orders or regulations of the Board, including the requirement to file a vacancy registration form at the beginning of a new tenancy commencing on or after January 1, 1996; or

(2) Demands, accepts, receives or retains any payment in excess of the maximum allowable rent for the unit permitted by the Ordinance; or

(3) Has failed to comply, after order of the Board, with any provisions of the Ordinance and/or orders or regulations of the Board concerning the affected rental unit; or

(4) Has failed to bring the rental unit into compliance with the implied warranty of habitability, as demonstrated by an outstanding Notice of Violation from the City's Housing Code Enforcement and/or failure to comply with a Rent Board Hearing Examiner's Decision.

(H) The amount of this general adjustment for which the landlord shall be eligible shall decrease by ten percent (10%) per month for each month beyond October 1, 2022, for which the landlord fails to register. A landlord who is ineligible to raise rents under this general adjustment due to a violation of one or more of the conditions of subsection (G) shall be able to raise rents under this adjustment in future years upon correction of the condition and substantial compliance with the Ordinance in accordance with Civil Code section 1947.7.



Rent Stabilization Board

MEMORANDUM

DATE: October 20, 2022

TO: Honorable Members of the Berkeley Rent Stabilization Board

FROM: Matt Brown, General Counsel *(MB)*

SUBJECT: 2023 INFLATIONARY ADJUSTMENT OF RELOCATION ASSISTANCE PAYMENTS

Recommendation

That the Board adopt Resolution 22-27 to publish that, pursuant to Berkeley Municipal Code sections 13.76.130.A.9.h (Owner Move-In), and 13.77.055.A.2 (Ellis Act), the relocation assistance payments set forth in sections 13.76.130.A.9.g. (Owner Move-In) and 13.77.055.A (Ellis Act) shall increase by **6.8%** effective January 1, 2023.

I. Background

Section 13 of the Rent Stabilization Ordinance, codified at Berkeley Municipal Code (B.M.C.) section 13.76.130.A.9, requires relocation assistance payments by landlords to tenants in the event of an Owner Move-In eviction. Adopted by Berkeley voters in November of 2016, Measure AA amended section 13.76.130.A.9 to both increase the amount of the relocation assistance payments, and to index the payments to inflation. On October 20, 2016, the Berkeley City Council amended the Ellis Act Implementation Ordinance (Chapter 13.77) to require the same relocation assistance payment amounts and the same inflation adjustments.¹

II. Computing Relocation Assistance Payments in Accordance with Berkeley Municipal Code Sections 13.76.130.A.9.h. and 13.77.055.A.2

Beginning in 2018, and effective January 1, 2019, the relocation assistance payment amounts for Owner Move-In evictions may be increased by the percentage increase in the Consumer Price Index – All Urban Consumers in the San Francisco-Oakland-San Jose Region for the 12-month period ending June 30, of the prior year, as published by the United States Department of Labor.

¹ While B.M.C. Chapter 13.77 was adopted by Council and is not part of the Rent Ordinance, the Ellis Implementation Ordinance specifically provides that the Board shall publish the yearly inflationary increase in the relocation assistance fee. B.M.C. section 13.77.055A.2.

Any increase shall be published by the Board on or before October 31st of each year. The same provisions apply to Ellis Act Relocation Assistance Payments, which “shall” annually increase by the same criteria. (B.M.C. 13.77.055.A.2.)

The Board’s long-standing practice in determining the allowable percentage rent increase, is that numbers of .04 and below shall be rounded down to the nearest tenth decimal place and numbers of .05 and above shall be rounded up to the nearest tenth decimal place.

The U.S. Department of Labor, Bureau of Labor Statistics, has reported that for the twelve-month period ending June 30, 2022, the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose region increased from 309.497 to 330.539, an increase of 21.042 points. Thus, the relevant CPI from June 2021 (309.497) to June 2022 (330.539) has increased by 6.8%.² (See Attachment 1.)

The current relocation assistance payment amounts are \$16,864 for standard relocation and an additional \$5,621 for qualifying tenant households. In accordance with the 6.8% increase in CPI, effective January 1, 2023, the relocation assistance payment amounts set forth in section 13.76.130.A.9.g. (Owner Move-In), are increased to **\$18,011** for the standard relocation payment with an additional **\$6,003** for qualifying tenant households following Board action to approve the attached Resolution. Likewise, the relocation assistance payment amounts set forth in section 13.77.055.A (Ellis Act) shall be **\$18,011** for the standard relocation payment with an additional **\$6,003** for qualifying tenant households following Board action to approve the attached Resolution.

III. Staff Review

Staff has reviewed the Consumer Price Index figures published by the U.S. Department of Labor, Bureau of Labor Statistics and confirms that, pursuant to Berkeley Municipal Code sections 13.76.130.A.9.h (Owner Move-In), and 13.77.055.A.2 (Ellis Act), the 2022 relocation payments are subject to an increase of **6.8%** effective January 1, 2023. Staff recommends that the Board adopt a resolution to publish the 2023 Relocation Assistance Payment Amounts no later than October 31, 2022, and to direct staff to advise the interested public regarding these changes.

Attachments

1. U.S. Department of Labor, Consumer Price Index, All Urban Consumers (CPI), San Francisco-Oakland-San Jose, CA., All items, June 2019 - June 2022.
2. Proposed Resolution 22-27 Confirming that the 2022 Relocation Assistance Payments for Owner Move-In and Ellis Act Shall Increase by 6.8 Percent Effective January 1, 2023 and Publishing the 2023 Relocation Payment Amounts.

² While the actual difference is 6.799%, it has been the Board’s practice to base the 65% calculation on the CPI percentage increase rounded to the nearest tenth decimal place.



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Databases, Tables & Calculators by Subject

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Data extracted on: July 13, 2022 (12:53:15 PM)

CPI for All Urban Consumers (CPI-U)

Series Id: CUURS498SA0

Not Seasonally Adjusted

Series Title: All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted

Area: San Francisco-Oakland-Hayward, CA

Item: All items

Base Period: 1982-84=100

Download: .xlsx

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2019		291.227		294.801		295.259		295.490		298.443		297.007	295.004	293.150	296.859
2020		299.690		298.074		300.032		300.182		301.736		302.948	300.084	299.109	301.059
2021		304.387		309.419		309.497		311.167		313.265		315.805	309.721	306.724	312.718
2022		320.195		324.878		330.539								323.408	

12-Month Percent Change

Series Id: CUURS498SA0

Not Seasonally Adjusted

Series Title: All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted

Area: San Francisco-Oakland-Hayward, CA

Item: All items

Base Period: 1982-84=100

Download: .xlsx

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2020		2.9		1.1		1.6		1.6		1.1		2.0	1.7	2.0	1.4
2021		1.6		3.8		3.2		3.7		3.8		4.2	3.2	2.5	3.9
2022		5.2		5.0		6.8								5.4	

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RESOLUTION 22-27**CONFIRMING THAT THE 2023 RELOCATION ASSISTANCE PAYMENTS FOR OWNER MOVE-IN AND ELLIS ACT EVICTIONS SHALL INCREASE BY 6.8 PERCENT EFFECTIVE JANUARY 1, 2023, AND PUBLISHING THE 2023 RELOCATION PAYMENT AMOUNTS**

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

WHEREAS, Section 13 of the Rent Stabilization Ordinance, codified as Berkeley Municipal Code section 13.76.130.A.9, provides that effective January 1st of each year, the Relocation Assistance Payments required for Owner Move-In Evictions may be adjusted by the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30; and,

WHEREAS, the Ellis Act Implementation Ordinance, codified as Berkeley Municipal Code Chapter 13.77, provides that effective January 1st of each year, the Relocation Assistance Payments required for Ellis Act evictions shall be adjusted by the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30; and,

WHEREAS, the U.S. Department of Labor, Bureau of Labor Statistics, has reported that the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region for the twelve-month period ending June 30, 2022, has increased by 6.8 percent from 309.497 to 330.539; and,

WHEREAS, a 6.8 percent increase in the current Owner Move-In and Ellis Act Relocation Assistance Payment Amounts of \$16,864 and an additional \$5,621 for eligible tenant households yields a 2023 Relocation Assistance Payment amount of \$18,011 and an additional \$6,003 for qualifying tenant households; and,

WHEREAS, both Berkeley Municipal Code sections 13.76.130.A.9.h (Owner Move-In) and 13.77.055.A.2 (Ellis Act) mandate that the Rent Board publish any change in the Relocation Payment Amounts no later than October 31st of each year,

NOW, THEREFORE BE IT RESOLVED by the Rent Stabilization Board that the 2023 Relocation Assistance Payments required for Owner Move-In evictions and Ellis Act evictions shall be adjusted by 6.8% effective January 1, 2023, and Rent Board staff shall publicize the 2023 Relocation Assistance Payments in a manner reasonably determined to notify all affected persons. A 6.8 percent increase in the current Owner Move-In and Ellis Act Relocation Assistance Payment Amounts of \$16,864 and an additional \$5,621 for eligible tenant households yields a 2023 Relocation Assistance Payment amount of \$18,011 and an additional \$6,003 for qualifying tenant households.

RESOLUTION 22-27

CONFIRMING THAT THE 2023 RELOCATION ASSISTANCE PAYMENTS FOR OWNER MOVE-IN AND ELLIS ACT EVICTIONS SHALL INCREASE BY 6.8 PERCENT EFFECTIVE JANUARY 1, 2023, AND PUBLISHING THE 2023 RELOCATION PAYMENT AMOUNTS (Page 2)

Dated: October 20, 2022

Adopted by the Rent Stabilization Board by the following vote:

YES:

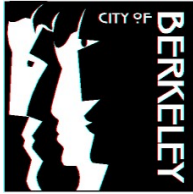
NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chairperson
Rent Stabilization Board

Attest: _____
DeSeana Williams, Executive Director



Rent Stabilization Board

DATE: September 22, 2022

TO: Honorable Members of the Eviction/Section 8/Foreclosure Committee

FROM: Oliver Ehlinger, Staff Attorney

SUBJECT: Summary of Ellis Act Evictions (1986 – 6/1/2022)

Background

The origins of the Ellis Act (Gov't Code sections 7060 *et seq.*; “the Act.”) are found in *Nash v. City of Santa Monica* (1984) 37 Cal.3d 97. The plaintiff in *Nash* argued that rent control was a form of indentured servitude, and it was unconstitutional to force him to continue as a landlord by not being able to evict his tenants at will. The California Supreme Court disagreed and found that a city’s interest in maintaining adequate rental housing outweighed a landlord’s interest in demolishing his residential rental property provided the landlord was receiving a fair return on his investment. In 1985, in direct response to the *Nash* decision, the Legislature adopted the Ellis Act which provides that: “[n]o public entity . . . shall . . . compel the owner of any residential real property to offer, or to continue to offer, accommodations in the property for rent or lease.” (Gov’t Code §7060(a).) Thus, the Act gives property owners an absolute right to leave the residential landlord-tenant business. Accordingly, a claim that a landlord is going out of the residential rental business is good cause for eviction. The Ellis Act does not expressly create new or additional rights to change the use of the property after the property owner regains possession of the rental units and, in fact, allows cities to maintain control over most land use issues.

In an attempt to ensure that this right to evict sitting tenants is not abused, the Act authorizes a municipality to place the following constraints on a property that has been removed from the residential rental market. The City Council codified Berkeley’s various restrictions in the Ellis Implementation Ordinance (Berkeley Municipal Code Section 13.77):

- For all tenancies commenced within 5 years of the date of filing of the notice of intent to withdraw accommodations from rent or lease or the date the accommodations were withdrawn from the market, whichever is later, the accommodation must be rented at the lawful rent in effect at the time the notice is filed, plus the annual adjustments granted by the Berkeley Rent Board. (B.M.C. 13.77.040A.)

- If the accommodations are rented within 2 years of being withdrawn from the rental housing market, the owner shall be liable to the displaced tenants for actual and punitive damages. (B.M.C. 13.77.040B.)
- If the accommodations are re-rented within 10 years of the date of withdrawal, the accommodation must first be offered to the displaced tenant(s). (B.M.C. 13.77.040C.)
- In addition, the Condominium Conversion Ordinance prohibits owners from applying to convert the building to condominiums for at least 10 years following the filing of an Ellis notice. (B.M.C. 21.28.060C. and 21.28.090B.)

The Ellis Act and Implementation Ordinance authorize accommodations to be withdrawn from the market following at least 120 days' notice to the tenants. (Gov't Code §7060.4(b). and B.M.C. 13.77.050A.1.) The date of withdrawal is extended to one year for tenants who are disabled or 62 years of age or older, have lived in the unit for at least one year and have timely notified the owner of qualification for this extended notice period. (Gov't Code §7060.4(b). and B.M.C. 13.77.050A.8.)

The Ellis Implementation Ordinance has been revised several times throughout the years to account for changes in state law and to adjust relocation benefits. In the ordinance, the Council initially established relocation benefits of \$4,500, an amount that tracked the original relocation benefits given to low-income tenants who are displaced due to owner move-in evictions. In subsequent years, Council has revised the Ellis Implementation Ordinance to remove the requirement that a household be low-income to receive relocation benefits. These were adjusted by Council in December of 2016 increasing the relocation benefits to \$15,000 per household with an additional \$5,000 available to households that qualify as low-income or include disabled or elderly tenants, minor children, or a household with a tenancy that began prior to January 1, 1999. Commencing in 2018, the relocation benefits now increase in an amount based on the Consumer Price Index.

At the request of the Council and as permitted under City of Berkeley Charter Article XVII Section 123(4), the Rent Board monitored compliance with the Ellis Act from 1986-1991. From 1991 through 1999 the City administered the Ellis Act. The Board resumed monitoring compliance in 2000. The Board counsels landlords and tenants regarding the Ellis Act; receives and reviews all Ellis notices; contacts tenants following receipt of notices; holds the relocation funds in escrow and distributes funds at the appropriate time; files the notice of constraints with the County; and continues to monitor rental occupancy of units that were withdrawn from the rental market on a periodic basis.

Ellis Bill filings in the city have remained fairly low the past few years compared to cities such as San Francisco and Los Angeles which have experienced exponentially greater Ellis Act filings. In 2018 there were six filings totaling twenty-six units, for 2019 there was one filing which has since been rescinded, for year 2020 there were two filings, one of which was rescinded. In 2021, there were five filings, representing 25 units, one of which was rescinded. Through June 1, there were four filings, representing seven units. This is compared to filings in

the early 2000's which saw 40 filings representing 113 units over a span from 2001 through 2004.

The following data is taken from the Board's and City's Ellis Act files:

Ellis Bill Filings Since July 1986

Calendar Year	# of Properties Filed	Total Number of Units	Comments
1986	1	6	
1987	3	7	
1988	2	5	
1989	8	19	
1990	14	52	12 unit bldg
1991	8	18	
1992	6	23	
1993	6	26	12 unit bldg
1994	2	2	
1995	2	4	
1996	2	19	12 unit bldg
1997	4	5	
1998	3	4	
1999	4	7	
2000	2	5	
2001	18	51	
2002	9	24	
2003	8	17	
2004	6	21	
2005	2	3	
2006	7	26	
2007	4	8	
2008	6	11	
2009	2	8	
2010	2	11	
2011	0	0	
2012	0	0	
2013	2	7	
2014	3	10	
2015	6	21	
2016	3	11	
2017	4	13	
2018	5	13	
2019	0	0	
2020	2	6	
2021	5	25	
*2022	4	7	
Totals	165	495	

*Totals through June 1, 2022

Size of the Buildings Taken off the Market

Number of Units in Bldg	Total Ellis Filings	% of Total Filings
1 Unit	50	30%
2 Units	42	25%
3 Units	20	12%
4 Units	22	13%
5 Units	5	3%
6 Units	12	7%
7 Units	4	2%
8 Units	3	2%
9 Units	1	0.6%
10 Units	0	n/a
11-15 Units	3	2%
16 or More Units	1	.6%

ELLIS RELOCATION BENEFITS

Berkeley	\$16,341 for all households \$5,447 additional for any household with disabled, elderly, low-income, long-term or tenant with minor child
San Francisco	Up to \$7,419.12 per tenant (\$22,257 max per household) depending on when filed Add up to \$4,946.07 for each elderly or disabled tenant
Santa Monica	Studio \$16,500 (\$17,200 for disabled, elderly, family with minor) 1 Bedroom \$22,700 (\$24,250 for disabled, elderly, family with minor) 2+ Bedrooms \$31,550 (\$33,650 for disabled, elderly, family with minor)
West Hollywood	Studio \$7,840 1 Bedroom \$11,070 2 Bedroom \$14,911 3+ Bedrooms \$19,679 Disabled/elderly/terminally ill/moderate income or minor child – \$20,753 Low-income \$26,133



Rent Stabilization Board

M E M O R A N D U M

DATE: September 22, 2022

TO: Honorable Members of the Eviction/Section 8/Foreclosure Committee

FROM: Ollie Ehlinger, Staff Attorney
Jen Fabish, Community Services Specialist

SUBJECT: Owner Move-in Eviction Tracking Report (July 2019 – June 2022)

BACKGROUND

I. Measure Y

In November 2000, in response to a rash of owner-move-in evictions, Berkeley voters adopted Measure Y as an amendment to the Rent Stabilization and Eviction for Good Cause Ordinance. Known as Berkeley’s owner move-in (OMI) law, Measure Y was subsequently codified under Berkeley Municipal Code (B.M.C.) Section 13.76.130A.9. It allowed property owners to evict tenants so that the owner or qualifying relatives could move into rental units, but placed restrictions and conditions on such evictions.¹ In addition, property owners who evicted tenant households that qualified as low income were required to pay \$4,500 relocation assistance prior to the tenants relinquishing possession of their rental units.

After an owner move-in eviction, the rental rate for the next tenancy established in the vacant unit cannot exceed the lawful apparent rent ceiling that applied to the former tenancy. (Rent Board Reg. 1016). Furthermore, the evicted tenant/s have the opportunity move back into the unit if they expressed an interest in doing so at the time of the eviction. (B.M.C. 13.76.130A9.o.)

¹Under B.M.C. 13.76.130A.9b., an owner could evict a tenant so that the owner, or his/her spouse, child, or parent could occupancy in a rental unit. The owner or relative must have intended to live in the unit for 36 continuous months. Additionally, with few exceptions, property owners could not evict seniors or disabled tenants who have occupied their rental units for five years or more in buildings with four or more units.

II. Measure AA

In November 2016, Berkeley voters passed Measure AA, which amended Measure Y. While many of above-referenced provisions of the owner move-in law remain the same, Measure AA implemented the following substantial changes:

- Property owners who evict tenants for owner move-in purposes must pay a standard relocation fee to all tenant households where at least one occupant has resided in the unit for more than one year.²
- Qualifying low-income, disabled, elderly, families with minor children, or those tenancies that began prior to 1999 are eligible to receive an additional relocation assistance payment.³
- Families with minor children are protected from being evicted during the school year.
- A City or Rent Board hearing examiner can adjudicate disputes regarding a tenant's entitlement to the additional relocation assistance.

Finally, as under Measure Y, Measure AA requires that “. . . at least twice annually, Rent Board Staff shall report to the Rent Board regarding the occupancy status of units possession of which has been recovered . . . within the prior thirty-six months.” (B.M.C. 13.76.130A9.r.)

² The current standard relocation assistance amount is \$16,864, and may be increased each year by the percentage increase in the Consumer Price Index – All Urban Consumers in the San Francisco-Oakland-San Jose Region for the 12-month period ending June 30 of the prior year, as published by the United States Department of Labor.

³ The current additional relocation assistance amount is \$5,621, which may also be adjusted each year as described above.

OMI REPORT: July 1, 2019 – June 30, 2022

COVID-19 SHELTER-IN-PLACE & EVICTION MORATORIUM

Due to the COVID-19 pandemic, the City of Berkeley declared a local State of Emergency on March 3, 2020, which is still in effect. On March 16, 2020, the City of Berkeley Public Health Officer issued a Shelter-in-Place Order, and has subsequently issued a number of Health Orders aimed at reducing the spread of COVID-19. On March 17, 2020, the City of Berkeley passed the COVID-19 Emergency Response Ordinance that placed a moratorium on most evictions, including OMI evictions. (B.M.C 13.110.) It remains in effect as of the date of this report.

STAFF MONITORING

To ensure that tenant protections are not violated, Rent Board staff endeavor to contact occupants living in units that have received OMI eviction notices at least once every six months. Staff send a letter to each unit notifying the occupant of the rent ceiling that would apply if they are a tenant rather than the owner or qualified family member (Attachment 1). Staff also research information in our databases and county ownership records to ensure that residency information is correct. Additionally, staff typically conduct focused site visits to try to ascertain residency when there is a question as to whether the owner or family member actually lives in the unit after an OMI notice is sent.

When staff receives information that a new tenant may be living in a rental unit following an OMI eviction, staff may contact the owner and/or tenant to ascertain the facts and circumstances pertaining to this occupancy. Staff will often provide counseling to both the owner and tenant when appropriate regarding the proper rent ceilings for that unit. Additionally, when appropriate, staff will attempt to contact tenant households displaced from a rental unit due to an OMI notice to explain the options, rights and remedies that may be available if it appears that the Ordinance has been violated.

OMI NOTICES AND RELOCATION ASSISTANCE PAYMENTS

Notices Filed with the Rent Stabilization Board

Between July 1, 2019 and June 30, 2022, four OMI eviction notices were filed. The following table shows how these notices were distributed amongst unit types, and the number of instances where the information currently available to staff indicates a unit is tenant occupied.

Unit designation	Number of notices sent	Unit currently tenant-occupied
Single family home	0	0
Duplex	2	0
Triplex	0	0
Fourplex ⁴	2	2
Five units & more	0	0

⁴In this reporting period, two separate notices were served on the same unit at a fourplex property, which were rescinded.

Of the four notices, two were for owner-move-in and two involved qualifying relative move-in evictions.

Relocation Assistance⁵

One of the four properties that received OMI notices in the reporting period received the standard relocation assistance payment. Three OMI notices were rescinded.

The one household that received the standard relocation payment also received the additional relocation payment on the following ground:

Claims for Additional Relocation Payment	
Grounds	Number of Claims
Minor Child	0
Disabled	1
Low Income	0
60 or more years old	0
Long-term Tenant	0

NARRATIVE DATA FROM STAFF RESEARCH

Single Family Homes – There were no OMI notices served on single-family homes during the current reporting period.

Duplexes – Two notices were served on duplexes during the current reporting period. Staff has verified that the owner or family member named in the notice has moved in for both of these cases.

One of the two duplex units that received an OMI notice is a potential “golden duplex,” i.e., fully exempt if an owner of record of at least 50% occupies one of the two units. In this case, the notice designated a family move-in and staff has verified that the owner’s son has moved in.

Triplexes – There were no OMI notices served on triplex properties during this reporting period.

Fourplexes – Two notices were served on the same unit during the current reporting period. Both were rescinded due to the local eviction moratorium, and the unit appears to remain tenant-occupied.

Five or more units – There were no OMI notices served on properties with five or more units during the current reporting period.

OWNERSHIP HISTORY PRIOR TO OMI FILING

Previously, the committee requested data showing how long a landlord owned the property prior to filing an OMI notice.⁶

⁵ Prior reports included information on properties subject to Measure Y’s relocation assistance requirement. There are no longer any such properties in the reporting period, so all relocation assistance data pertain to properties subject to Measure AA’s relocation assistance requirements.

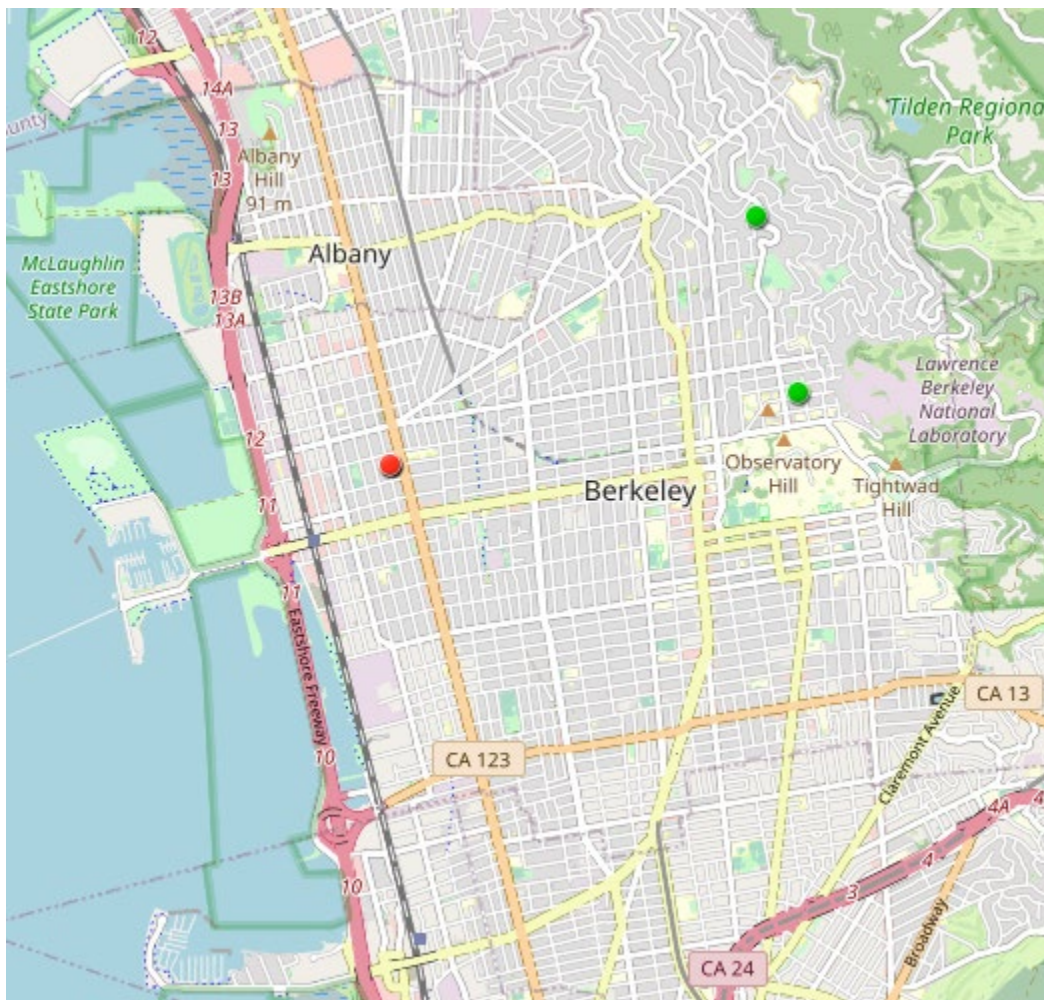
⁶ This data includes title transfers. For the purpose of calculating data, we used the time between the transfer date and the notice of eviction.

Ownership Prior to Notice	Number of Properties
less than 1 year	2
Between 1 and 2 years	1
2 to 5 years	0
5 to 10 years	0
More than 10 years	1

LOCATION OF OMI PROPERTIES

General Distribution

The map below shows the general distribution of OMI notices for the current reporting period. Note: Two notices were served on the same address, so there are 3 data points rather than 4.



OMI Notices Location Map
 July 2019 – June 2022
 ● Owner Notice
 ● Family Notice

Geographic Location and Market Area

The table below ordinarily shows the geographic location and market area of properties that received an OMI Notice in the last six months of the current reporting period. Berkeley has been under a local eviction moratorium since March of 2020, and there were no new notices filed in the last six months of the current reporting period. Attachment 2 shows the geographic location and market area for all properties subject to OMI notices during the current reporting period.

Date filed	Street	Market Area
N/A	N/A	N/A

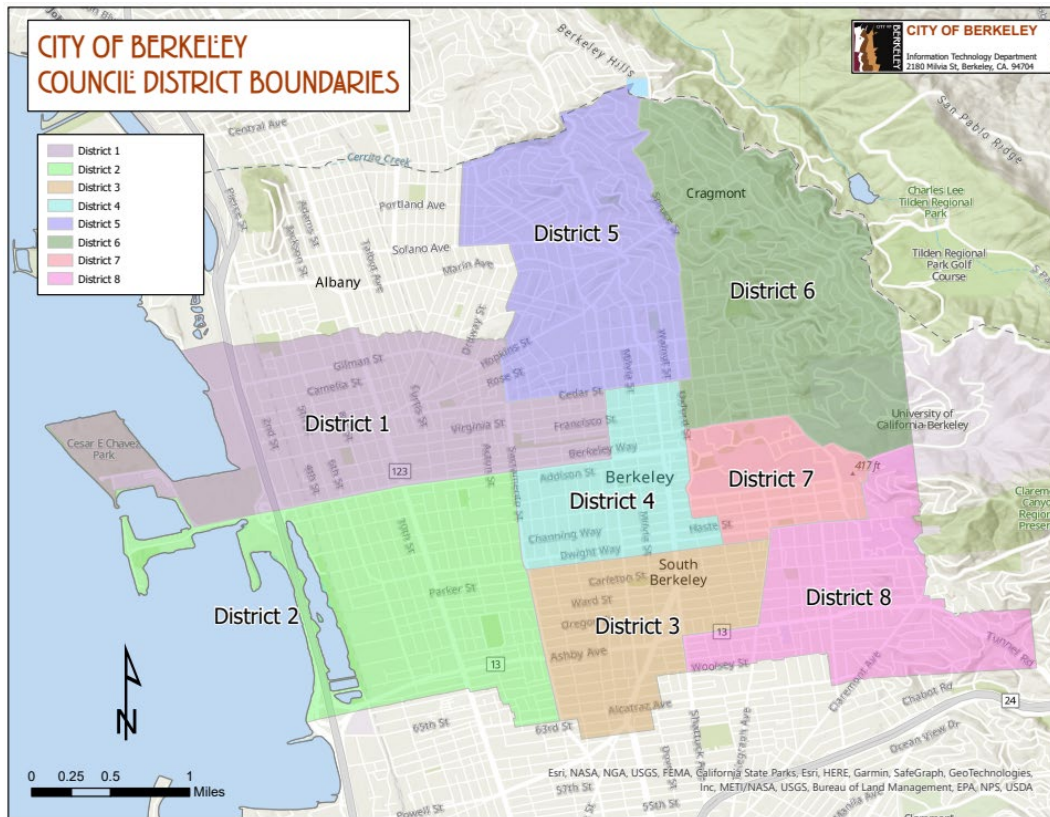
City of Berkeley Census Tract Map & Market Areas



Number of OMI Notices by Council District

At its April 13, 2017 meeting, the Committee requested information about the number of notices served in each City Council District. The table below summarizes this information for the current reporting period:

Council District	Number of Total Notices	Number of Notices, Last Six Months of Reporting Period
1	2	0
2	0	0
3	0	0
4	0	0
5	0	0
6	2	0
7	0	0
8	0	0



CONCLUSION

During this reporting period (July 2019 – June 2022), the Board received a total of four OMI eviction notices. During the initial three-year monitoring period (December 2000 – December 2003), the Board received 110 eviction notices. Historically, after the passage of Measure Y, the number of evictions reported for each three-year period was significantly less than the initial period. This trend can be seen in Attachment 3, which shows, in six-month increments, the number of OMI eviction notices the Board has received since September 2000. The first reporting period in the table reflects only four months (September-December 2000), but during this time, 47 of the 56 evictions occurred during the three months prior to the adoption of Measure Y. While the Board did not track the number of OMI notices received prior to September 2000, it has been reported that the number of notices issued during the period from December 1997 to December 2000 was similar to or greater than the four-month period from September to December 2000, before Measure Y became law.

Although the implementation of Measure Y reduced the displacement of long-term tenants and required some relocation assistance for the most vulnerable displaced tenants, as housing prices and rents increased dramatically in recent years, so did the number of OMI evictions. The number of OMI evictions started to pick up in early-2014 (e.g., there were 19 OMI notices filed from January – June 2014). Between 2014 and 2016, there were 78 notices filed.

In November 2016, Berkeley voters passed Measure AA, which requires a standard relocation payment to all households and an additional payment if a member of the evicted household is

elderly, disabled, a long-term tenant, low income, or if there is a minor child in the household.

The City's COVID-19 Emergency Response Ordinance, passed in March 2020, placed a moratorium on evictions, including OMI evictions, and remains in place as of the date of this report. The two OMI notices in the current reporting period filed with the Board before the moratorium went into effect were filed in November and December 2019. Two notices were filed in 2021 despite the moratorium and were subsequently rescinded. No new notices were filed during the last six months of the current reporting period.

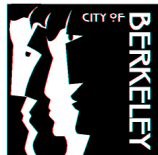
Attachment 1: Sample of letter sent to select rental units that received an OMI eviction notice for the period of July 2019 – June 2022.

Attachment 2: Table reflecting geographic location and market area of properties subject to OMI notices for the period of July 2019 – June 2022.

Attachment 3: Table of OMI notices filed with the Rent Board for the period of September 2000 through June 2022.

ATTACHMENT 1

Sample of Letter Sent to Select Rental Units that Received OMI Notices



Rent Stabilization Board

September 6, 2022

Current Occupant/ [REDACTED]

[REDACTED]
Berkeley, CA, 94708

RE: Owner Move-in eviction at [REDACTED]

Dear Occupant:

Our records indicate that a prior tenant in your unit was evicted so that the unit could be occupied by the owner or a close relative of the owner. Berkeley Municipal Code section 13.76.130.A(9)(p) requires the Rent Board to monitor your unit for three years to ensure that the unit is, in fact, occupied by the owner or a relative of the owner. Therefore, you will receive a letter like this once every six months during this three-year period. If you are the owner or a *non-rent* paying parent, spouse, domestic partner, or child of the owner, it is not necessary for you to respond to this letter.

If you are not the owner and are paying rent, your rent should not exceed:

\$3087.79

If you are paying rent in excess of this amount, you should contact me at (510) 981-4924. Also, Rent Board Counselors are available to explain your rights and options, including the procedure for recovering any rent overcharges you have paid. An explanation of your rights may also be found on the Rent Board's web site: rentboard.berkeleyca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Ollie Ehlinger".

Ollie Ehlinger
Staff Attorney

ATTACHMENT 2

Geographic Location and Market Area of Properties Subject to OMI Notices

Date filed	Street	Market Area
11/22/2019	2587 Le Conte Ave.	University Area (Area 3)
12/6/2019	1140 Euclid Ave.	North Berkeley (Area 1)
8/17/2021	1725 10 th St.	West Berkeley (Area 4)
10/8/2021	1725 10 th St.	West Berkeley (Area 4)

ATTACHMENT 3

OMI Eviction Notices Filed With Berkeley Rent Board

Date of Eviction Notice	Number of Notices Received
September – December 2000 *(only four months)	56
January – June 2001	32
July – December 2001	21
January – June 2002	17
July – December 2002	9
January – June 2003	13
July – December 2003	10
January – June 2004	14
July – December 2004	5
January – June 2005	16
July – December 2005	6
January – June 2006	10
July – December 2006	1
January – June 2007	7
July – December 2007	2
January – June 2008	1
July – December 2008	7
January – June 2009	7
July – December 2009	7
January – June 2010	6
July – December 2010	3
January – June 2011	6
July – December 2011	2
January – June 2012	5
July – December 2012	5
January – June 2013	10
July – December 2013	3
January-June 2014	19
July – December 2014	8
January – June 2015	16
July – December 2015	10

January- June 2016	17
July-December 2016	8
January-June 2017	15
July-December 2017	4
January – June 2018	6
July-December 2018	3
January-June 2019	12
July – December 2019	2
January – June 2020*	0
July – December 2020*	0
January – June 2021*	0
July – December 2021**	2
January – June 2022*	0
Total Notices Filed 10/2000- 06/2020	403

* Due to the COVID-19 pandemic, on March 17, 2020, the City of Berkeley passed an Urgency Ordinance placing a moratorium on evictions in most cases, including OMI evictions. As of the end of the current reporting period (June 30, 2022), the moratorium remained in place.

**Two notices were served on the same property during this period despite the eviction moratorium. They were rescinded.

**Commissioner Attendance at Rent Stabilization Board Meetings
Through Q3 of 2022**

2022	Soli ALPERT	James CHANG	Xavier JOHNSON	Andy KELLEY	Paola LAVERDE	Mari MENDONCA	John SELAWSKY	Leah SIMON-WEISBERG	Dominique WALKER
January 20	Present	Present	Present	Present	Present	Present	Present	Present	Present
February 17	Present	Present	Present	Present	Present	Present	Present	Present	Present
March 17	Present	Present	Present	Present	Present	Present	Present	Present	Present
<i>April 11</i>	Absent*	Present	Present	Present	Absent*	Present	Present	Present	Present
April 21	Present	Absent*	Present	Present	Present	Present	Present	Present	Present
May 19	Present	Present	Present	Present	Present	Present	Present	Present	Present
June 16	Present	Present	Present	Present	Present	Present	Present	Present	Present
July 21	Present	Present	Present	Present	Present	Absent*	Present	Present	Present
August 18 <i>Cancelled</i>	NA	NA	NA	NA	NA	NA	NA	NA	NA
September 15	Present	Present	Present	Present	Present	Present	Present	Present	Present
October 20									
November 17									
December 15									
<p>* = Absent with compensation ** = Absent due to a medical reason <i>Bold and italicized</i> = Special Meeting</p>									

Commissioner Attendance
 Rent Stabilization Board COMMITTEE Meetings:
 January - March (Q1)

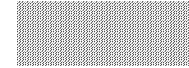
COMMITTEES	Soli ALPERT	James CHANG	Xavier JOHNSON	Andy KELLEY	Paola LAVERDE	Mari MENDONCA	John SELAWSKY	Leah SIMON-WEISBERG	Dominique WALKER
<i>Budget & Personnel</i>									
Tuesday, February 15, 2022		Present					Present	Present	Present
Tuesday, March 8, 2022		Present					Present	Present	Present
Tuesday, March 29, 2022		Present					Present	Present	Absent
<i>Eviction / Section 8 / Foreclosure</i>									
Thursday, March 24, 2022					Present	Present	Present		Absent
<i>IRA / AGA / Registration</i>									
Wednesday, January 12, 2022	Present		Present	Present				Present	
Wednesday, February 9, 2022	Present		Present	Present				Present	
Wednesday, March 9, 2022	Present		Present	Present				Present	
<i>Outreach</i>									
Wednesday, January 19, 2022		Present		Present	Present	Present			
Wednesday, February 16, 2022		Present		Present	Present	Present			
Wednesday, March 16, 2022		Present		Present	Present	Present			
<i>4 x 4 Joint Committee on Housing (City Council/Rent Board)</i>									
Tuesday, January 11, 2022	Present		Present	Present				Present	
Wednesday, February 23, 2022	Present		Present	Present				Present	
<i>2 x 2 Committee on Housing (BUSD/Rent Board)</i>									
<i>This Committee did not meet this quarter.</i>									

**Commissioner Attendance
Rent Stabilization Board COMMITTEE Meetings:
January - March (Q1)**

COMMITTEES	Soli ALPERT	James CHANG	Xavier JOHNSON	Andy KELLEY	Paola LAVERDE	Mari MENDONCA	John SELAWSKY	Leah SIMON-WEISBERG	Dominique WALKER
<i>Ad Hoc Committee on Technology Issues</i>									
Monday, January 24, 2022							Present	Present	

^ = Meeting cancelled due to lack of a quorum

* = Absent with compensation

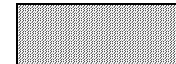
 = Not a member of this Committee at this time

Commissioner Attendance
Rent Stabilization Board COMMITTEE Meetings
April - June (Q2)

COMMITTEES	Soli ALPERT	James CHANG	Xavier JOHNSON	Andy KELLEY	Paola LAVERDE	Mari MENDONCA	John SELAWSKY	Leah SIMON-WEISBERG	Dominique WALKER
Budget & Personnel									
Tuesday, May 17, 2022		Present					Present	Present	Present
Monday, June 6, 2022		Present					Present	Present	Present
Eviction / Section 8 / Foreclosure									
Thursday, April 28, 2022					Present	Present	Present		Present
LIRA									
<i>This Committee did not meet this quarter.</i>									
Outreach									
Wednesday, April 20, 2022		Present		Present	Present	Present			
Wednesday, May 18, 2022		Present		Present	Present	Present			
Wednesday, June 15, 2022		Absent*		Present	Present	Present			
4 x 4 Joint Committee on Housing (City Council/Rent Board)									
Monday, April 18, 2022	Present		Absent	Present				Present	
Tuesday, May 3, 2022	Present		Present	Present				Present	
2 x 2 Committee on Housing (BUSD/Rent Board)									
<i>This Committee did not meet this quarter.</i>									
Ad Hoc Committee on Technology Issues									
Monday, June 6, 2022							Present	Present	

^ = Meeting cancelled due to lack of a quorum

* = Absent with compensation



= Not a member of this Committee at this time

Rent Board Commissioner Attendance
 COMMITTEE Meetings
 July-September 2022 (Q3)

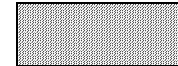
COMMITTEES	Soli ALPERT	James CHANG	Xavier JOHNSON	Andy KELLEY	Paola LAVERDE	Mari MENDONCA	John SELAWSKY	Leah SIMON-WEISBERG	Dominique WALKER
<i>Budget & Personnel</i>									
Tuesday, July 12, 2022		Present					Present	Present	Present
Monday, September 12, 2022		Present					Present	Present	Present
<i>Eviction / Section 8 / Foreclosure</i>									
Thursday, July 28, 2022					Present	Present	Present		Present
Thursday, September 22, 2022					Present	Present	Present		Present
<i>LIRA</i>									
Wednesday, September 21, 2022	Present		Present	Present				Present	
<i>Outreach</i>									
Wednesday, July 20, 2022		Present		Present	Present	Present			
Wednesday, August 10, 2022		Present		Present	Present	Present			
Wednesday, September 21, 2022		Present		Present	Present	Present			
<i>4 x 4 Joint Committee on Housing (City Council/Rent Board)</i>									
Tuesday, July 12, 2022	Present		Present	Present				Present	
Wednesday, September 28, 2022			Present	Present				Present	Absent
<i>2 x 2 Committee on Housing (BUSD/Rent Board)</i>									
<i>This Committee did not meet this quarter.</i>									

Rent Board Commissioner Attendance
 COMMITTEE Meetings
 July-September 2022 (Q3)

COMMITTEES	Soli ALPERT	James CHANG	Xavier JOHNSON	Andy KELLEY	Paola LAVERDE	Mari MENDONCA	John SELAWSKY	Leah SIMON- WEISBERG	Dominique WALKER
<i>Ad Hoc Committee on Technology Issues</i>									
<i>This Committee did not meet this quarter.</i>									

^ = Meeting cancelled due to lack of a quorum

* = Absent with compensation



= Not a member of this Committee at this time



RENT STABILIZATION BOARD
BUDGET & PERSONNEL COMMITTEE MEETING

Tuesday, October 11, 2022

5:30 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/81566684038?pwd=YUNyd1B5bnpZYVdEaGZkVTc1TGILdz09>. 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 6668 4038 and Passcode: 403154. 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 3:30 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, October 11, 2022 – 5:30 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 (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
4. Public Comment
5. Approval of September 12, 2022, meeting minutes (attached to agenda)
6. Discussion and possible action on recommendation to amend contract with Keren Stashower of Kinnectics, LLC (see attached report)
7. Update, discussion, and possible action on current staffing model and recommendation to add a 1.0 (FTE) Finance Manager position to the Rent Board staffing model (see attached report)
8. Update on Work Place Culture Retreat (verbal update only)
9. **CLOSED SESSION:** Public Employee Evaluation of Performance pursuant to California Government Code Section 54957(b)(1).

Title: General Counsel

10. Future agenda items

11. Discussion and possible action to set next meeting

12. Adjournment

STAFF CONTACT: DéSeana Williams, Executive Director (510) 981-7368
COMMITTEE: James Chang (Chair), John Selawsky, Leah Simon-Weisberg, Dominique Walker



RENT STABILIZATION BOARD
EVICTION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

Thursday, September 22, 2022

5:30 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 **Eviction/Section 8/Foreclosure Committee** (Committee) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, **there will not be a physical meeting location available.**

To access this meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device by clicking on this URL: <https://us06web.zoom.us/j/81399989148?pwd=Q29wdS9SV3l3SzZqcTI5TkJkbnJiQT09>. 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: 813 9998 9148 and Passcode: 762386. 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 oeHLinger@cityofberkeley.info with the Subject line in this format: "PUBLIC COMMENT ITEM FOR EVICTION/SECTION 8 COMMITTEE". Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 3:30 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
EVICTIION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

Thursday, September 22, 2022 – 5:30 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 of the July 28, 2022 meeting (attached to Agenda)
5. Public Comment
6. Discussion and possible action regarding Ellis Act Report (See attached staff report)
7. Discussion and possible action regarding Measure AA Owner Move-in Eviction Report and the Board's practices regarding circulating the report to Council (See attached staff report)
8. Discussion and possible action regarding Committee Workplan
9. Discussion and possible action regarding Future Agenda Items
10. Confirm next meeting date (Commissioners: please bring calendars to meeting)
11. Adjournment

STAFF CONTACT: Ollie Ehlinger, Staff Attorney – (510) 981-4924

COMMITTEE: Paola Laverde, Mari Mendonca (Chair), John Selawsky, Dominique Walker



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

Wednesday, September 21, 2022

4:30 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/81735314336?pwd=cmJ3TWRucWNGK0hpajQ5Nk84NFc3Zz09>. 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: 817 3531 4336 and Passcode: 563060. 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 2:30 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, September 21, 2022 – 4:30 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 March 9, 2022 meeting (Attached to agenda)
5. Public Comment
6. Chair Report
7. Discussion and possible action regarding sanction options for failure to produce Vacancy Registration Forms for current tenancies (See attached staff report)
8. Discussion and possible action regarding possible changes to Rent Board Regulations authorizing penalty waiver process
9. Discussion and possible action regarding preparing agency for the expiration of the current eviction moratorium
10. Discussion and possible action regarding LIRA Committee Work Plan
11. Discussion and possible action regarding future agenda items
12. Confirm next meeting date
13. 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, September 21, 2022 – 5:30 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, the spread of COVID-19 continues to be a threat to 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/81786562570?pwd=Y1cvOVZMOUpBTHVUNEIVMU5MSXFUUT09>. If you do not wish your name to appear on the screen, then use the drop-down menu and click on "Rename" to rename yourself as 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: 817 8656 2570, and Passcode: 248411. 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 3:30 p.m. on the day of the Committee meeting 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, September 21, 2022 – 5:30 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 (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 the Agenda (2 min)
4. Approval of the Minutes of the August 10, 2022 Meeting (Attached to Agenda) (5min)
5. Public Comment (5 min)
6. Discussion/possible action regarding Tenant Survey
 - Pre-Notification Postcard (attached)
 - Berkeley Tenants Survey (attached) (15 min)
7. Fair Chance Ordinance (Informational Update) (attached) (5 min)

8. Staff Report: Recent and Upcoming Events, Webinars, Workshops (10 min)
 - Solano Stroll (September 11, 2022) (Photos attached)
 - Harvest Festival in Cedar Rose Park (October 15, 2022) (Flyer attached)
9. Schedule Next Meeting Date (2 min)
10. Future Agenda Items (5 min)
11. Adjournment (2 min)

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

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



RENT STABILIZATION BOARD
OUTREACH COMMITTEE MEETING

Wednesday, October 19, 2022 – 5:30 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, the spread of COVID-19 continues to be a threat to 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/84724944895?pwd=L05rVjBKYjRFQWFRVVBleFZZYUhpdz09>. If you do not wish your name to appear on the screen, then use the drop-down menu and click on "Rename" to rename yourself as 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: 847 2494 4895, and Passcode: 265893. 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 3:30 p.m. on the day of the Committee meeting 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
October 19, 2022 – 5:30 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. Approval of the Minutes of the August 10, 2022 Meeting (Attached to agenda) (5 min)
5. Approval of the Minutes of the September 21, 2022 Meeting (Attached to agenda) (5min)
6. Public Comment (5 min)
7. Discussion/possible action regarding Tenant Survey (25 min)
 - 7 (a) Memo from Social Science Research Center Director, Laura Gil-Trejo
 - 7 (b) Draft Contract Supplemental: Cost of Additional 1,000 surveys if low response
 - 7 (c) Original Service Contract

8. Fair Chance Ordinance (Informational Update) (attached) (5 min)
9. Staff Report: Recent and Upcoming Events, Webinars, Workshops (10 min)
10. Schedule Next Meeting Date (2 min)
11. Future Agenda Items (5 min)
12. Adjournment (2 min)

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

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



4x4 Joint Task Force Committee on Housing
City Council and Rent Board

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

Wednesday, September 28, 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 Task Force 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/81975393372?pwd=S21hNlFtKzJ0amRPczFnZVFHVE1HZz09>. 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: 819 7539 3372 and Passcode: 282147. 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 Joint Task Force Committee on Housing
City Council and Rent Board

*****REVISED AGENDA*****

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

Wednesday, September 28, 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 July 12, 2022 Committee meeting minutes (see attachment)
6. Update on the implementation of the Rental Housing Safety Program's cyclical inspection process (presentation by Jenny McNulty, Planning Department staff)
7. Discussion on the amendments to the Berkeley Housing Code (Planning Department staff, see attachment)
8. Discussion and possible policy recommendation to Council regarding Tenant Habitability Plan Ordinance (requested by Mayor Arreguín and Chair Simon-Weisberg, see attachment)
9. Discussion and possible recommendations on signage related to the Elevator Ordinance (requested by Executive Director Williams)
10. Discussion on proposed demolition of eight dwelling units at 2435 Haste Street (requested by Chair Simon-Weisberg, see attached memo)

11. Discussion on proposed demolition of eight dwelling units at 2429-33 San Pablo Avenue
(requested by Chair Simon-Weisberg)
12. Quick updates on previously discussed items
 - a. Demolition Ordinance
13. Discussion of possible future agenda items
14. Confirm next meeting date
15. 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 Joint Task Force Committee on Housing
City Council and Rent Board

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

Tuesday, July 12, 2022 – 10:00 a.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 Task Force 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/81457454729?pwd=QIQvSVQxWi84Q09neU1pU20rRytjUT09>. 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: 814 5745 4729 and Passcode: 831356. 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 8:00 a.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 Joint Task Force Committee on Housing
City Council and Rent Board

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

Tuesday, July 12, 2022 – 10:00 a.m.

Minutes To Be Approved

1. Roll call: Mayor Arreguín called the meeting to order at 10:05 a.m.
Present: Mayor Arreguín, RB Chair Simon-Weisberg, RBC Alpert, CM Harrison, RBC Johnson, RBC Kelley, CM Taplin (logged on at 10:08 a.m.).
Absent: CM Robinson.
Staff present: Diego Aguilar-Canabal, Matt Brown, Lief Bursell, Nate Dahl, Stefan Elstrand, Margot Ernst, Jen Fabish, Hannah Kim, Amanda Montez, Be Tran, DéSeana Williams, Lisa Warhuus.
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 the agenda: M/S/C (Harrison/Simon-Weisberg) Approve the agenda as written. Roll call vote. YES: Alpert, Arreguín, Harrison, Johnson, Kelley, Simon-Weisberg, Taplin; NO: None; ABSTAIN: None; ABSENT: Robinson. Carried: 7-0-0-1.
4. Public comment on non-agenda matters: There were three speakers.
5. Approval of May 3, 2022 Committee meeting minutes (see attachment): M/S/C (Arreguín/Harrison) Approve the minutes as written. Roll call vote. YES: Alpert, Arreguín, Harrison, Johnson, Kelley, Simon-Weisberg, Taplin; NO: None; ABSTAIN: None; ABSENT: Robinson. Carried: 7-0-0-1.

6. Discussion and possible policy recommendation to Council regarding Relocation Ordinance and suggested additions from previous discussion regarding Tenant Habitability Plan Ordinance (requested by Mayor Arreguín and Chair Simon-Weisberg): Chair Simon-Weisberg and Mayor Arreguín presented and took feedback to inform the process of crafting a formal recommendation for the committee. Next steps include meeting with Planning Department staff and other stakeholders.

There were two public speakers.

7. Discussion regarding the pandemic “eviction cliff” (requested by Mayor Arreguín): The committee discussed, amongst other things: The process for reinstating amendments to the Urgency Ordinance (BMC 13.110) from December of 2020 that were inadvertently removed in a subsequent May 2021 amendment; rent relief funding; anticipating service provision needs after the local state of emergency is lifted; and other tenant and small landlord relief needs.

There were two public speakers.

8. Discussion of possible future agenda items: Update on inter-department conversations around administration of the Relocation Ordinance as it currently exists, and possible amendments (Alpert).
9. Confirm next meeting date: The next meeting is tentatively scheduled for September 28, 2022, from 3:00 – 5:00 p.m.
10. Adjournment: M/S/C (Arreguín/Simon-Weisberg) Adjourn the meeting. Roll call vote. YES: Alpert, Arreguín, Harrison, Johnson, Kelley, Simon-Weisberg, Taplin; NO: None; ABSTAIN: None; ABSENT: Robinson. Carried: 7-0-0-1.

The meeting adjourned at 12:03 p.m.

COMMITTEE MEMBERS:

Mayor Jesse Arreguín

City Councilmember Kate Harrison

City Councilmember Rigel Robinson

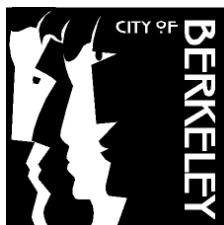
City Councilmember Terry Taplin

Rent Board Chairperson Leah Simon-Weisberg

Rent Board Vice-Chairperson Soli Alpert

Rent Board Commissioner Xavier Johnson

Rent Board Commissioner Andy Kelley



Planning and Development Department
Building and Safety Division

Sep 22, 2022

To: Honorable Members of the 4x4 Committee

From: Alex Roshal, Chief Building Official, Manager of Building and Safety Division
Jenny McNulty, Resilient Buildings Program Manager

Subject: Re-enactment of the Berkeley Housing Code

The Planning Department's Building and Safety Division has drafted an ordinance to consolidate and update housing code regulations in the Berkeley Municipal Code (BMC) by repealing BMC Chapter 12.48 (Residential Rental Housing Safety Program) and moving it into BMC Chapter 19.40 (Berkeley Housing Code), and repealing and re-enacting BMC Chapter 19.40. We would like to review the proposed ordinance with the 4x4 Committee prior to bringing it to City Council on November 3rd.

CURRENT SITUATION AND ITS EFFECTS

The purpose of the Berkeley Housing Code is to safeguard, remedy and prevent the decay and deterioration of residential buildings and property by providing minimum standards for housing and property maintenance, for the protection of life, health, welfare, and the safety of the general public and the occupants and owners of such buildings. The Rental Housing Safety Program (RHSP) enforces the provisions of the Berkeley Housing Code by identifying housing violations when responding to tenant complaints and conducting proactive housing inspections of rental housing.

The Berkeley Housing Code is scoped and defined as BMC Chapter 19.40 and applicable provisions of the currently adopted editions of the California Building Code, California Existing Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, of the State Housing Law and applicable regulatory ordinances enacted by the City and listed in Title 19 of the Berkeley Municipal Code.

This ordinance restructures and updates BMC Chapter 19.40, which has not been significantly updated for over 20 years, retaining the existing content, editing for clarity and including additional sections to reflect code updates and local operations. Since the RHSP is under the jurisdiction of the Building Official, RHSP provisions contained in BMC 12.48 were moved out of Title 12 Health and Safety into Title 19 Buildings and Construction Chapter 19.40 Section 19.40.080. The attachment, "Explanation of Significant Changes to the Berkeley Housing

Code,” identifies how the Berkeley Housing Code has been restructured, describes new content, and provides the rationale for the proposed changes. This report highlights the most significant changes. The re-enactment of the Berkeley Housing Code is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

The re-enacted Berkeley Housing Code is reflective of the state housing law provisions in Title 25 of the California Code of Regulations (CCR) as well as the applicable provisions in the Health and Safety Code for buildings used for human habitation. The current Berkeley Housing Code references multiple chapters from the 1997 Uniform Housing Code. Despite still being a part of state housing law in California, the 1997 Uniform Housing Code is out of publication and not easily found. This generates complaints from property owners who are unable to locate applicable code sections. Instead of referencing an inaccessible document, the amended Berkeley Housing Code reproduces all relevant sections from the 1997 Uniform Housing Code, with minor modifications and updates to improve clarity for the end-user referencing the code. In addition, the complete definition of substandard housing from Health and Safety Code Section 17920.3 has been incorporated into the Berkeley Housing Code, due to its importance. These additions make the Berkeley Housing Code more transparent and readable for tenants and property owners. It provides for straight referencing directly out of the Berkeley Housing Code, thereby reducing instances where a violation references another code.

Under Section 103 Scope and Applicability, new Sections 103.6 and 103.7 are intended to allow the Building Official to use the most flexible provisions if there are conflicts between codes. These sections allow use of the “least restrictive” standards when dealing with unpermitted dwelling units, including standards in effect at the time of construction, current code standards, or “reasonable alternatives to the requirements of prior code editions.” This code language will reduce the risk of taking housing units off the market while trying to comply with more restrictive code requirements. This approach will also enable the City to develop a viable Amnesty Program for undocumented units, a current City Council referral.

The Housing Code has been updated to reflect changes in the California Building Code. The California Building Code is revised every three years, and over time, has become more flexible than the existing outdated Berkeley Housing Code. For example, requirements for new construction pertaining to natural light, ventilation and ceiling heights have become less stringent and more flexible by providing certain exemptions and alternatives not currently found in the existing Berkeley Housing Code. Major changes were made to the California Building Code, Residential Code, and Energy Code in 2008 when the state adopted International Codes. The re-enacted Berkeley Housing Code recognizes different requirements for residential units built or remodeled after 2008, so there is no conflict between the California Building Code and the Berkeley Housing Code.

The re-enacted Berkeley Housing Code reflects and codifies Berkeley’s approach to code enforcement, which emphasizes education, voluntary compliance and a gradual enforcement approach. The only enforcement mechanism currently in the Berkeley Housing Code is a Notice and Order, which is a punitive measure that obligates the City to take action if substandard conditions are not abated by the owner in a timely manner, such as seeking a court appointed receiver. The re-enacted Berkeley Housing Code adds Section 1002, which

allows inspectors to issue a Notice of Violation as the first step in the code enforcement process. A Notice of Violation is issued if substandard conditions are observed. It provides the property owner with a list of Housing Code violations, the actions required to remedy the violations and the time frame to correct. After issuing multiple notices of violation, if the problem has not been corrected or if conditions deteriorate to endanger the life and safety of the occupants, the City may issue a Notice and Order to escalate enforcement efforts. Unless there is an immediate hazard, a Notice of Violation precedes issuance of a Notice and Order and the City resorts to code enforcement proceedings only after efforts to secure voluntary compliance have failed.

The State of California established statewide inspection requirements for exterior elevated elements when it added Section 17973 to the Health and Safety Code, effective January 1, 2019 and Section 5551 to the California Civil Code, effective January 1, 2020. These requirements are based on Berkeley's exterior elevated elements inspection requirements enacted in 2015, but with a few modifications, including different timeframes. The Berkeley Housing Code is being amended to align with state law, with the timeframe of the inspection cycle adjusted to every six years for rental properties and every nine years for condominiums.

Other significant modifications in the ordinance include:

- Provisions for smoke alarms and carbon monoxide alarms from the California Building Code have been incorporated into the Berkeley Housing Code (Section 19.40.070), since inspectors frequently note violations related to fire detection systems. This will allow inspectors to directly reference the Berkeley Housing Code for these violations.
- Section 19.40.140 adopts specific lien and special assessment procedures to strengthen enforceability. This Section also specifies these apply to administrative citations as well as inspection fees.

BACKGROUND

In 2015, the City Council referred to the City Manager to improve and expand the RHSP. Re-enacting the Berkeley Housing Code will improve RHSP operations. Updating the Berkeley Housing Code has been a priority to support the expansion of proactive inspections and the effort to improve the quality of housing and the quality of life for tenants in Berkeley.

There have only been three minor updates to the Berkeley Housing Code since 1999, which encompassed an administrative update in 2003, establishment of the exterior elevated elements inspection requirement in 2015, and the repeal of the certification of gas heating equipment in 2011 after the State passed a law requiring all owners to install carbon monoxide detection devices. For the current effort, staff conducted extensive research and reviewed housing codes from numerous other jurisdictions.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

The hot water requirement in the Berkeley Housing Code has been updated from 120°F to 110°F to be consistent with the state housing law provisions in Title 25 of the California Code of Regulations. The comfort space heating requirement has been updated from 70°F to 68°F to reflect the State Energy Code. These lower temperatures allow for energy conservation.

RATIONALE FOR RECOMMENDATION

The Berkeley Housing Code needs updating. The current code in BMC Chapter 19.40 adopts the 1997 Uniform Housing Code by reference. The newly revised Chapter 19.40 is better organized and incorporates all relevant sections of the Uniform Housing Code with local modifications and is based on California Code of Regulations Title 25 State Housing Law Regulations and Health and Safety Code Regulation of Buildings Used for Human Habitation. The description of and rationale for the significant changes to the Berkeley Housing Code are included in Attachment 1: Explanation of Significant Changes to the Berkeley Housing Code.

The revised Berkeley Housing Code will benefit tenants, help property owners fulfill their obligations as landlords and assist inspectors in doing their jobs by better substantiating the violations they write. BMC Chapter 19.40 is an educational asset and will serve the community by eliminating confusion, making the Berkeley Housing Code accessible and easier to use. It will help tenants verify habitability requirements and understand the basis of violations in their units. It provides clearer and more specific context for describing violations and facilitating abatement work. It will also assist with the upcoming development of an Amnesty Program for undocumented units, a current City Council referral.

Attachments:

- 1: Explanation of Significant Changes to the Berkeley Housing Code
- 2: Proposed ordinance repealing BMC 12.48 and repealing and re-enacting BMC 19.40

Explanation of Significant Changes to the Berkeley Housing Code

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
19.40.010	General Provisions		
101	Title	BMC 19.40.010	
102	Purpose	New section based on UHC Section 102	Clarifies purpose of the Berkeley Housing Code.
103	Scope and Applicability	New section based on UHC Section 103 with staff clarifications	Clarifies applicability and identifies how the Berkeley Housing Code supplements other BMC sections.
104	Authority	BMC 19.40.020 Sec. 201.1	
105	Rights of Entry	BMC 19.40.020 Sec. 201.2	
106	Responsibilities defined	BMC 19.40.020 Sec. 201.3	
107	Owner or representative to live on premises	BMC 19.40.100 Section 1701	
108	Violations	BMC 19.40.020 Sec. 204	
109	Housing Advisory and Appeals Board	BMC 19.40.020 Sec. 203	
19.40.020	Definitions	BMC 12.48.030, UHC Section 401 with added definitions	Definitions expanded to be more complete and coordinated with the California Building Code and Health & Safety Code.
19.40.030	Space and Occupancy Standards	New section based on UHC Chapter 5 with staff clarifications. Subsection 304.3D is a local amendment from the Berkeley Mechanical Code.	Incorporated into the BMC since the 1997 UHC is out of publication. Starting in 2008, the Building and Mechanical Codes allowed habitable spaces to use artificial lighting and outdoor air mechanical ventilation in lieu of window openings for natural light and ventilation. This is not reflected in the currently

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
		<p>Provisions on artificial lighting in Section 304.2 were incorporated from the California Building Code.</p>	<p>adopted 1997 UHC. Since different requirements apply to habitable spaces constructed or altered after 2008, this section reconciles the difference between the Berkeley Housing Code and the California Building Code and incorporates alternative ventilation requirements for those buildings constructed or altered after 2008.</p> <p>Ceiling height reductions added to Section 303.1 reducing the ceiling height from 7'6" to 7' and 6'8" in certain instances and room floor area reduction from 120 sq ft to 70 sq ft in Section 303.2 for one- and two-family dwellings in coordination with the California Residential Code.</p> <p>The Berkeley Mechanical Code has a local amendment mandating that residential kitchen ranges or cooktops be provided with a vented hood. This amendment has been incorporated into the Housing Code Subsection 304.3 D for transparency and to make the information more accessible to inspectors and the public.</p> <p>Section 606 added clarifying how interior surfaces of residential buildings are to be maintained.</p>

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
19.40.040	Structural Requirements		
401, 402, 403	Structural Requirements	UHC Section 601	Incorporated into the BMC since the 1997 UHC is out of publication.
404	Structural Maintenance	BMC 19.40.035 and BMC 12.48.055	Exterior Elevated Elements (E3) inspection requirements updated to be consistent with the Health and Safety Code, with a 6-year inspection cycle for rental units and a 9-year cycle for condos and the same licensed professionals authorized to perform inspections. The State excluded structural pest control operators and added certified building inspectors and building officials who are not employees of the jurisdiction.
19.40.050	Mechanical and Electrical Requirements		
501	Heating	BMC 19.40.040 Section 701.1	Revised temperature that heating systems in habitable spaces need to be able to maintain from 70°F to 68°F to reflect changes in the California Building Code and Energy Code. Added a requirement that water provided to plumbing fixtures shall be supplied at a temperature of not less than 110°F as specified in the CCR Title 25 State Housing Law.
502	Electrical Equipment	UHC Section 701.2	Incorporated into the BMC since the 1997 UHC is out of publication.
503	Ventilation	UHC Section 701.3	Incorporated into the BMC since the 1997 UHC is out of publication.

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
19.40.060	Exits	New section based on UHC Chapter 8 with staff clarifications	<p>Incorporated into the BMC since the 1997 UHC is out of publication.</p> <p>Added reference to minimum security requirements for exit doors in BMC 19.80.</p> <p>Clarification added regarding minimum net clear openings and requirement that egress windows not be obstructed. Section 601.F on means of egress added for ease of reference.</p> <p>Added window security bar regulations from the California Building Code and Health and Safety Code 17958.3.</p> <p>Clarification added that replacement windows shall be as required for new installations to be consistent with the California Building Code.</p>
19.40.070	Fire Protection	New based on UHC Section 901, California Building Code Chapter 9 and Health and Safety Code 17926	<p>Incorporated into the BMC since the 1997 UHC is out of publication.</p> <p>Also, for reference purposes, this section incorporates smoke alarm and carbon monoxide alarm provisions from the California Building Code Chapter 9 and Health and Safety Code 17926.</p>
19.40.080	Rental Housing Safety	12.48	Since the Rental Housing Safety Program (RHSP) is under the jurisdiction of the

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
			Building Official, RHSP provisions contained in BMC 12.48 were moved to BMC 19.40.080.
801	Findings	BMC 12.48.010	Outdated findings (previous 12.48.010 C and D) deleted per HAC recommendation.
802	Purpose	BMC 12.48.020	
803	Residential rental housing safety certification	BMC 12.48.050	<p>Added the option of emailing the checklist, in addition to mailing or personal delivery.</p> <p>Deleted the three-year exemption from proactive housing inspections for units which have had an inspection and received a certificate of compliance. Currently, the RHSP conducts a comprehensive inspection when responding to a tenant complaint. In the future, the RHSP may modify this practice to limit reactive inspections to the tenant's concerns and inspect all units on a cyclical basis, based on LA's model. This would eliminate the administrative step of checking if there has been an inspection in the unit in the last three years. Removing this from the Code would allow flexibility in the future.</p>
804	Unlawful alteration of premises by tenant/occupant	BMC 12.48.060	
805	Periodic inspection of rental dwelling unit	BMC 12.48.070	
806	Reactive/Complaint Inspections	New	BMC 19.40.070 incorporates current BMC 12.48 of the RHSP, Berkeley's proactive

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
			inspection program. BMC Section 806 has been added regarding complaint-based inspections. The subsequent code sections describe procedures for both proactive and reactive inspections.
807	Certificate of Compliance issued when	BMC 12.48.070	Removed that the certificate of compliance will be valid for three years, for the reason explained above for section 803.
808	Correction of violations required	BMC 12.48.080	
809	Violations	BMC 12.48.100	
810	Penalties	BMC 12.48.110	
19.40.090	Substandard Housing		
901	Substandard housing - Defined	BMC 19.40.020 Section 202 with added definition from Health and Safety Code	For reference purposes, this section incorporates the entire list of substandard conditions from the California Health and Safety Code 17920.3. Headings have been bolded for ease of understanding.
902	Substandard building - Nuisance	BMC 19.40.020 Sec. 202	
19.40.100	Orders of the Building Official	BMC 19.40.060	
1001	Commencement of proceedings	BMC 19.40.060 Section 1101 (a)	
1002	Notice of violation	New	Added to reflect current procedures. Berkeley begins with a Notice of Violation to encourage voluntary compliance before progressing to a Notice and Order, unless substandard conditions are severe.
1003.1	Notice and order	BMC 19.40.060 Section 1101 (b) 1003.1.G New	1003.1.G added for clarity to cross reference the relocation ordinance per HAC recommendation.

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
1003.2	Service of notice and order	BMC 19.40.060 Section 1101 (c)	
1003.3	Method of service	BMC 19.40.060 Section 1101 (d)	
1003.4	Proof of service	BMC 19.40.060 Section 1101 (e)	
1003.5	Appeals	BMC 19.40.060 Section 1101 (f)	
1004	Repair, vacation and demolition	BMC 19.40.060 Section 1102	
1005	Notice to vacate	BMC 19.40.060 Section 1103	
1005.1	Posting	BMC 19.40.060 Section 1103 (a)	
1005.2	Compliance	BMC 19.40.060 Section 1103 (b)	
1006	Recordation of notice and order	BMC 19.40.060 Sec. 1104	
1007	Post-Disaster Safety Assessment	New	Provides inspection procedures post-disaster.
19.40.110	Enforcement of Orders	BMC 19.40.070	
19.40.120	Performance of Repair or Demolition	BMC 19.40.080	
19.40.130	Recovery of Cost of Repair or Demolition	BMC 19.40.090	
19.40.140	Recovery of Costs for Housing Code Enforcement and Administration	BMC 19.40.110 and BMC 12.48.090	
1401.1	Establishment of Fees	BMC 19.40.110 Section 1801 (a) and BMC 12.48.090.A	

New Code Section in 19.40	Title	Prior BMC or Uniform Housing Code (UHC) Section or New Content	Description of / Rationale for Significant Changes
1401.2	Recovery of delinquent Rental Housing Safety Program fees and administrative citations	BMC 19.40.110 Section 1801 (b)	
1401.3	Appeals	BMC 12.48.120	
1401.4	Lien or special assessment procedures	New and BMC 12.48.090.B	Adopts more specific lien and special assessment procedures to strengthen their enforceability and specifies that these apply to administrative citations as well as inspection and annual fees.
1401.5	Failure to comply	BMC 19.40.110 Section 1801 (c)	

Deletions from 19.40	
19.40.030	Deleted outdated language in BMC 19.40.030 including outdated code references.
Previously Adopted Section of 1997 Uniform Housing Code that is no longer included	
Chapter 3	Permits and Inspections (covered under administrative provisions of BMC 19.28 Berkeley Building Code and BMC 19.40.080 Housing Inspections)

ORDINANCE NO. -N.S.

REPEALING BMC 12.48 AND REPEALING AND RE-ENACTING BMC 19.40

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code 12.48 is repealed.

Section 2. That Berkeley Municipal Code 19.40 is repealed and re-enacted, effective January 1, 2023 as follows:

**Chapter 19.40
Berkeley Housing Code**

- 19.40.010 Scope and Administration**
- 19.40.020 Definitions**
- 19.40.030 Space and Occupancy Standards**
- 19.40.040 Structural Requirements**
- 19.40.050 Mechanical and Electrical Requirements**
- 19.40.060 Exits**
- 19.40.070 Fire Protection**
- 19.40.080 Rental Housing Safety**
- 19.40.090 Substandard Housing**
- 19.40.100 Notices of the Building Official**
- 19.40.110 Enforcement of Orders**
- 19.40.120 Performance of Repair or Demolition**
- 19.40.130 Recovery of Cost of Repair or Demolition**
- 19.40.140 Recovery of Costs for Housing Code Enforcement and Administration**

19.40.010 Scope and Administration

101 – Title

This chapter shall be known as the “Berkeley Housing Code” and may be cited in this Chapter as “this Code”.

The following provisions of the Uniform Housing Code (UHC), 1997 Edition have been incorporated into this Code subject to the local modifications thereto which are set forth below: 1997 UHC Chapters 1 and 4-9, except Section 701.1

In administering the substantive provisions of this Code, the City shall be guided by the regulations issued by the California Department of Housing and Community Development in Title 25 of the California Code of Regulations, Division 1, Chapter 1, Subchapter 1 State Housing Law Regulations, as well as applicable provisions of the California Health and Safety Code, Division 13, Part 1.5 Regulation of Buildings Used for Human Habitation, Sections 17910 to 17998.3, and other housing related Codes adopted by the State of California.

102 – Purpose

The purpose of this Code is to safeguard, remedy and prevent the decay and deterioration of residential buildings and property as defined herein by providing minimum housing and property maintenance standards for the protection of life, health, welfare, and the safety of the general public and the occupants and owners of such buildings within the City of Berkeley.

103 – Scope and Applicability

1. The provisions of the Housing Code shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation. This Chapter is not an exclusive regulation of housing within the City of Berkeley. It shall supplement, be accumulative with, and be in addition to any applicable regulatory ordinances enacted by the City and listed in Title 19 of the Berkeley Municipal Code and any applicable State or Federal laws enacted by the State or Federal government or any other legal entity that may have jurisdiction.

2. Existing buildings and all portions thereof may have their existing use or occupancy continued, provided the building or portion thereof met the code requirements in effect at the time of construction, addition or alteration, and such continued use is not dangerous to life and is not substandard.

3. Existing buildings and all portions thereof shall be maintained in a safe and sanitary condition. All devices, components or safeguards, which are required by this Code,

shall be maintained in conformance with the Code edition under which installed, unless otherwise required by the Berkeley Building Code or other adopted ordinance or state law applied retroactively.

4. Existing buildings which are altered or enlarged shall be made to conform to this Code insofar as the new work is concerned, and in accordance with the adopted edition of the California Building Standards Code.

5. Any references to the provisions of former code editions shall be construed to apply to the corresponding provisions contained within the currently adopted edition of the California Building Standards Code.

6. Notwithstanding anything set forth or provided for in this chapter, if there is a conflict or discrepancy between the provisions of this Code, the State Housing Law, or the California Building Standards Code the Building Official is authorized to apply building standards which provide for the most flexibility to maintain continuity of housing, provided a substandard condition is not created or continued.

7. When a building permit record for a residential unit does not exist, the Building Official is authorized to make a determination of when the residential unit was constructed and then apply the building standards in effect when the residential unit was determined to be constructed or the current building standards, whichever is the least restrictive, provided the building does not become or continue to be a substandard or unsafe building. The Building Official is authorized to accept reasonable alternatives to the requirements of the prior or current code editions when dealing with unpermitted dwelling units.

8. Notwithstanding any provisions contrary in this Chapter, any building or portion thereof constructed in compliance with the Berkeley Building or Residential Codes shall not be deemed to be in violation of the Berkeley Housing Code provisions that may conflict.

104 – Authority

The City Manager is hereby authorized and directed to designate City departments and employees to administer and enforce all of the provisions of this code. City personnel designated to enforce this Code shall have the powers of a law enforcement officer.

The Building Official shall have the power to render interpretations of this Code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code. The Building Official has the authority to delegate the implementation, administration and enforcement of the provisions of this code to

housing inspectors, building inspectors, and other technical officers and employees. Such employees shall have powers as delegated by building official.

105 – Right of Entry

When it is necessary to make an inspection to enforce the provisions of this Code, or when the Building Official has reasonable cause to believe there exists in a building or upon a premises a condition which is contrary to or in violation of this Code, which makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that such building or premises be occupied, that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

106 – Responsibilities Defined

Owners remain liable for violations of duties imposed by this Code even though an obligation is also imposed on the occupants of the building, and even if the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this Code.

The owner or the owner's designated agent shall be responsible for maintaining buildings and structures and parts thereof in a safe and sanitary condition. To determine compliance with this subsection, the building may be re-inspected.

Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.

Owners shall, when required by this Code, the Health Ordinance or the Health Officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation, and when infestation has taken place, shall be responsible for the extermination of any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling.

Occupants of a dwelling unit, in addition to being responsible for keeping in a clean, sanitary and safe condition that part of the dwelling or dwelling unit or premises which they occupy and control, shall dispose of their rubbish, garbage and other organic waste in a manner required by the Health Ordinance and approved by the Health Officer.

Occupants shall, when required by this Code, the Health Ordinance or the Health Officer, furnish and maintain approved devices, equipment or facilities necessary to keep their premises safe and sanitary.

107 – Owner or Representative to Reside on Premises

1. The owner of every apartment house in which there are 16 or more apartments, and every hotel in which there are 12 or more guest rooms, shall either reside on the premises or ensure that a manager resides upon the premises.
2. Only one caretaker is required under this section for all structures under one ownership and on one contiguous parcel of land.
3. If the owner does not reside upon the premises of any apartment house in which there are more than four but less than 16 apartments, a notice stating his/her name and address, or the name and address of his/her agent in charge of the apartment house, shall be posted in a conspicuous place on the premises.

108 – Violations

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Code. Violations of this Code may be charged as infractions or misdemeanors, at the discretion of the enforcing officer. Charging violations of this Code as public offenses does not in any way limit any other remedies that might be available.

109 – Housing Advisory and Appeals Board

109.1 General. The Housing Advisory Commission (“Commission”) as defined in this Code and Chapter 19.44 of the Berkeley Municipal Code shall serve as the “Board of Appeals” and “Housing Advisory and Appeals Board” referred to in this Code. The Commission shall hear and decide appeals of orders, decisions or determinations made by the Building Official under this Code.

109.2 Limitations of Authority. The Housing Advisory and Appeals Board shall have no authority relative to interpretation of the administrative provisions of this Code nor shall the Board be empowered to waive requirements of this Code.

19.40.020 Definitions

201 – General

201.1 Terms Defined in Other Codes. Where terms are not defined in this Code and are defined in the California Building Code, California Existing Building Code, California

Electrical Code, California Mechanical Code, California Plumbing Code or California Fire Code, such terms shall have the meanings ascribed to them in those codes.

201.2 Terms Not Defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinary accepted meanings such as the context applies. Webster's Third New California Dictionary of the English Language, Unabridged, latest edition, shall be considered as providing ordinary accepted meanings.

202 – Definitions

Unless otherwise expressly stated, the following words and terms shall, for the purpose of this Code, have the meanings shown in the section.

Alteration is any construction or renovation to an existing building other than repair or addition. Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, and replacement of existing components.

Apartment is a dwelling unit as defined in this Code.

Apartment House is any building or portion thereof which contains three or more dwelling units and, which is rented, leased, let or hired out to be occupied for consideration, or which is occupied, as the home of three or more individuals, families or living groups, living independently of each other and doing their own cooking in said building.

Berkeley Housing Code is this Chapter and applicable provisions of the currently adopted editions of the California Building Code, California Existing Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code and the State Housing Law, and applicable regulatory ordinances enacted by the City and listed in Title 19 of the Berkeley Municipal Code.

Building Code is the California Building Code contained in Part 2, Title 24, California Code of Regulations, as adopted in Chapter 19.28 of the Berkeley Municipal Code.

Building Official is the officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

City means the City of Berkeley.

Complaint means notification by any person of a violation or a suspected violation of Berkeley Housing Code.

Congregate Residence is any building or portion thereof that contains facilities for living, sleeping and sanitation, as required by this code, and may include facilities for

eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, fraternity or sorority house but does not include jails, hospitals, nursing homes, hotels or lodging houses.

Dwelling is a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes, and includes any garages or other accessory buildings belonging thereto.

Dwelling Unit is a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Efficiency Dwelling Unit is a dwelling unit containing only one habitable room and constructed in accordance with Health and Safety Code Section 17958.1 or the California Building Code Section 1207.4.

Electrical Code is the California Electrical Code, contained in Part 3, Title 24, California Code of Regulations as adopted in Chapter 19.30 of the Berkeley Municipal Code.

Enforcement means diligent effort to secure compliance, including review of plans and permit applications, response to complaints, citation of violations, and other legal process. Except as otherwise provided in this Code, "enforcement" includes inspections of existing buildings, subject to this Code, on which no complaint or permit application has been filed, in an effort to secure code compliance as to these existing buildings.

Fire Code is the California Fire Code contained in Part 9, Title 24, California Code of Regulations, as adopted in Chapter 19.48 of the Berkeley Municipal Code.

Hot Water is water supplied to plumbing fixtures at a temperature of not less than 110°F.

Hotel is any building containing six or more rooms, which are used, intended or designed to be used, rented or hired out to be occupied for sleeping purposes by guests.

Landlord means an owner of record, lessor, sublessor or any other person or entity entitled to receive rent for the use or occupancy of any rental unit, or an agent, representative or successor of any of the foregoing.

Lodging House is any building or portion thereof, containing not more than five guest rooms where rent is paid in money, goods, labor or otherwise.

Manager means the person who has charge of any premises and is responsible for its maintenance, upkeep and cleaning.

Mechanical Code is the California Mechanical Code, contained in Part 4, Title 24, California Code of Regulations as adopted in Chapter 19.32 of the Berkeley Municipal Code.

Mold means microscopic organisms or fungi that can grow in damp conditions in the interior of a building.

Nuisance. The following shall be defined as nuisances:

1. Any public nuisance known at common law or in equity jurisprudence.
2. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.
3. Whatever is dangerous to human life or is detrimental to health, as determined by the health officer.
4. Overcrowding a room with occupants.
5. Insufficient ventilation or illumination.
6. Inadequate or unsanitary sewage or plumbing facilities.
7. Uncleanliness, as determined by the health officer.
8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.
9. Fire hazard.
10. Substandard building.

Occupant is any individual living, sleeping, cooking, or eating in or having possession of a dwelling unit or portion thereof.

Plumbing Code is the California Plumbing Code, contained in Part 5, Title 24, California Code of Regulations as adopted in Chapter 19.34 of the Berkeley Municipal Code.

Rent means the consideration, including any deposit, bonus, benefit or gratuity, demanded or received for or in connection with the use or occupancy of rental unit and housing services. Such consideration shall include, but not be limited to, monies and fair market value of goods or services rendered to or for the benefit of the landlord under the terms of the rental agreement.

Rental Unit is any dwelling or sleeping unit in any real property, including the land appurtenant thereto, rented or available for rent for residential use or occupancy located in the City, together with all services connected with the use or occupancy of such property such as common areas held out for use by the tenant.

Repair is renewal of any part or component of an existing building for the purpose of its maintenance or to correct damage.

Safety Assessment is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy following a natural or human-caused disaster event.

Sleeping Unit is a single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

State Housing Law is the state law regulating residential occupancies. It consists of

- Health and Safety Code: Division 13, Part 1.5 Regulation of Buildings Used for Human Habitation, Sections 17910 to 17998.3.
- California Code of Regulations: Title 25, Division 1, Chapter 1, Subchapter 1 State Housing Law and Regulations.

Substandard Building means any building or portion thereof used for habitation that substantially endangers the life, limb, health, property, safety or welfare of the public or its occupants due to one or more violations of Section 19.40.090 of this Code.

Tenant means any renter, tenant, subtenant, lessee, or sublessee of a rental unit, or successor to a renter's interest, or any group of tenants, subtenants, lessees, or sublessees of any rental unit, or any other person entitled to the use or occupancy of such rental unit.

Voluntary Code Compliance means, for the purpose of this Code, actions voluntarily initiated by an owner to achieve compliance with applicable laws including, but not limited to, fumigation, mold abatement, lead abatement, seismically retrofitting, as well as abatement work performed in response to a Notice of Violation under Sections 808 and 1002 of this Code. Work performed for the purpose of improvements is not considered voluntary code compliance.

19.40.030 Space and Occupancy Standards

301 – Location of Buildings on Property

All buildings shall be located with respect to property lines and to other buildings on the same property as required by the Building Code.

302 – Yards and Courts

302.1 Scope. This section shall apply to yards and courts having required window openings therein.

302.2 Yards. Every yard shall not be less than 3 feet in width for one- and two-story buildings. For buildings more than two stories in height, the minimum width of the yard shall be increased at the rate of 1 foot for each additional story. Where yards completely surround the building, the required width may be reduced by 1 foot. For buildings exceeding 14 stories in height, the required width of yard shall be computed on the basis of 14 stories.

303.3 Courts. Every court shall not be less than 3 feet in width. Courts having windows opening on opposite sides shall not be less than 6 feet in width. Courts bounded on three or more sides by the walls of the building shall not be less than 10 feet in length unless bounded on one end by a public way or yard. For buildings more than two stories in height, the court shall be increased 1 foot in width and 2 feet in length for each additional story. For buildings exceeding 14 stories in height, the required dimensions shall be computed on the basis of 14 stories.

Adequate access shall be provided to the bottom of all courts for cleaning purposes. Every court more than two stories in height shall be provided with a horizontal air intake at the bottom not less than 10 square feet (0.93 m²) in area and leading to the exterior of the building unless abutting a yard or public way. The construction of the air intake shall be as required for the court walls of the building, but in no case shall be less than one-hour fire-resistive.

303 – Room Dimensions

303.1 Ceiling Heights

- A.** Habitable spaces shall have a ceiling height of not less than 7 feet 6 inches except as otherwise permitted in this section. Kitchens, halls, bathrooms and toilet compartments may have a ceiling height of not less than 7 feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members. Where exposed beam ceiling members are spaced at 48 inches or more on center, ceiling height shall be measured to the bottom of the deck supported by these members provided that the bottom of the members is not less than 7 feet above the floor.

Exceptions - In one- and two-family dwellings only:

- (a) habitable spaces shall have a ceiling height of not less than 7 feet
 - (b) bathrooms, toilet compartments and laundry rooms shall have a ceiling height of not less than 6 feet 8 inches
 - (c) beams, girders, ducts or other obstructions in basements containing habitable space shall be permitted to project to within 6 feet 4 inches of the finished floor
- B.** If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.
- C.** If any habitable room has a furred ceiling, the prescribed ceiling height is required in two-thirds the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet.

303.2. Floor Area. Dwelling units and congregate residences shall have at least one room which shall have not less than 120 square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of two.

Exceptions:

1. Efficiency units: Nothing in this section shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements:
 - a. The unit shall have a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of such unit in excess of two.
 - b. The unit shall be provided with a separate closet.
 - c. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this Code shall be provided.
 - d. The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.

2. In one- and two-family dwellings only, habitable rooms shall have a floor area of not less than 70 square feet.

303.2 Width. No habitable room other than a kitchen shall be less than 7 feet in any dimension. Each water closet stool shall be located in a clear space not less than 30 inches in width, and a clear space in front of the water closet stool of not less than 24 inches shall be provided.

304 – Light and Ventilation

304.1 General. For the purpose of determining the light or ventilation required by this section, any room may be considered as a portion of an adjoining room when one half of the area of the common wall is open and unobstructed and provides an opening of not less than one tenth of the floor area of the interior room or 25 square feet, whichever is greater.

Exterior openings for natural light or ventilation required by this section shall open directly onto a public way or a yard or court located on the same lot as the building.

Exceptions:

1. Required windows may open into a roofed porch where the porch:
 - 1.1 Abuts a public way, yard or court;
 - 1.2 Has a ceiling height of not less than 7 feet; and
 - 1.3 Has a longer side at least 65 percent open and unobstructed.
2. Skylights.

304.2 Light. Habitable spaces shall be provided with natural light by means of exterior glazed openings with an area not less than one tenth of the floor area of such rooms with a minimum of 10 square feet or shall be provided with artificial light.

Habitable spaces constructed, converted, or altered after January 1, 2008, are permitted to have the minimum net glazed area of not less than 8 percent of the floor area of the room served.

When artificial lighting is provided, it shall be capable to provide an average illumination of 10 footcandles (107 lux) over the area of the room at a height of 30 inches above the floor level.

304.3 Ventilation.

- A.** Habitable spaces shall be provided with natural ventilation by means of operable exterior openings with an area of not less than 1/20 of the floor area of such rooms with a minimum of 5 square feet.

Habitable spaces constructed, converted, or altered after January 1, 2008, are permitted to have the minimum operable area of the openings to the outdoors of not less than 4 percent of the floor area being ventilated.

In lieu of required exterior openings for natural ventilation, a mechanical ventilating system may be provided. Such system shall be capable of providing two air changes per hour. Habitable spaces constructed, converted, or altered after January 1, 2008, are permitted to provide a mechanical ventilation Outdoor Air Rate (Q_{tot}) calculated in accordance with the following:

Outdoor Air Rate (Q_{tot}) equals 3% of the floor area plus 7.5 cfm for each occupant assumed to be equal to the number of bedrooms plus 1.

$$Q_{tot} = 0.03A_{floor} + 7.5 (N_{br} + 1)$$

Where:

Q_{tot} = Total required ventilation outdoor air rate (cfm)

A_{floor} = Floor Area (ft²)

N_{br} = Number of bedrooms

- B.** Bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of operable exterior openings with an area not less than 1/20th of the floor area of such rooms with a minimum of 1-½ square feet. In lieu of required exterior openings for natural ventilation in bathrooms containing a bathtub, shower or combination thereof; laundry rooms; and similar rooms, a mechanical ventilation system connected directly to the outside capable of providing five air changes per hour shall be provided. The point of discharge of exhaust air shall be at least 3 feet from any opening into the building. Bathrooms that contain only a water closet, lavatory or combination thereof, and similar rooms, may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

Bathrooms, water closet compartments, laundry rooms and similar spaces constructed, converted, or altered after January 1, 2008 are permitted to be mechanically ventilated at an exhaust rate not less than 50 cubic feet per minute for intermittent operation and 20 cubic feet per minute for continuous operation.

- C.** Kitchens constructed, converted, or altered after January 1, 2008 are permitted to be intermittently mechanically ventilated at an exhaust rate not less than 100

cubic feet per minute for range hoods or 300 cubic feet per minute for mechanical exhaust fans including downdraft appliances. Enclosed kitchens are permitted to be provided with continuous mechanical ventilation at an exhaust rate not less than 5 air changes per hour based on kitchen volume.

- D. Each kitchen range or cooktop shall be provided with a vented hood ducted to terminate outside the building, with a minimum air flow of 100 cubic feet per minute..

A local mechanical exhaust system installed in accordance with ASHRAE 62.2 and Subsection 304.3.C above shall be permitted in lieu of a vented range hood.

304.4 Hallways. All public and common hallways, corridors, stairs and other exitways shall be adequately lighted and illuminated at all times in accordance with Chapter 10 of the Building Code.

305 – Sanitation

A. Dwelling Units, Lodging Houses and Congregate Residences

Dwelling units, lodging houses and congregate residences shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.

B. Hotels

Where private water closets, lavatories and baths are not provided, there shall be provided on each floor, for each sex, at least one water closet and lavatory and one bath, accessible from a public hallway. Additional water closets, lavatories and baths shall be provided on each floor for each sex at the rate of one for every additional ten guests or fractional number thereof in excess of ten. As an equivalent alternative, adequate genderless facilities may be provided.

C. Kitchen

Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. A wooden sink or sink of similarly absorbent material shall not be permitted.

D. Fixtures

All plumbing fixtures shall:

1. Be connected to a sanitary sewer or an approved private sewage disposal system;

2. Be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation; and
3. Be of an approved glazed earthenware type or of a similarly nonabsorbent material.
4. All piping and plumbing fixtures shall be installed and maintained in working order, and shall be kept free from obstructions, leaks and defects.

E. Water Closet Compartments

Walls and floors of water closet compartments in common use and public areas, shall be finished in accordance with applicable provisions of the Building Code.

F. Room Separations

Every water closet, bathtub or shower required by this Code shall be installed in a room, which will afford privacy to the occupant.

G. Installation and Maintenance

All sanitary facilities shall be installed and maintained in a safe and sanitary condition and in accordance with applicable requirements of the Plumbing Code and other applicable laws.

306 – Building Interior

306.1 Interior Surfaces – Interior surfaces, including wall, floor and ceiling surfaces, windows and doors, shall be maintained in good, clean and sanitary condition. Any interior finishes that have a fire-resistance rated classification must maintain their fire rating and when repairs or replacement are performed, shall be repaired or replaced with similar or compatible materials of the same fire-resistance rating.

306.2 Interior Doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks. Any hardware that provides privacy must be maintained in operational condition.

19.40.040 Structural Requirements

401 – General

Buildings or structures may be of any type of construction permitted by the Building Code. Roofs, floors, walls, foundations, and all other structural components of buildings shall be capable of resisting any and all forces and loads to which they may

be subjected. All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as specified in the appropriate sections of the building code. Buildings of every permitted type of construction shall comply with the applicable requirements of the Building Code.

402 – Protection from Weather and Dampness

Every building shall be weather-protected so as to provide shelter for the occupants against the elements and to exclude dampness.

403 – Protection of Materials

All wood shall be protected against termite damage and decay as provided in the Building Code.

404 – Structural Maintenance

- A.** Pursuant to the requirements of Health and Safety Code Section 17973 (inspection deadlines in subsection (d) notwithstanding) projecting exterior elevated wood and metal decks, balconies, landings, stairway systems, guardrails, handrails, or any parts thereof in weather-exposed areas of Group R-1 and R-2 Occupancies, as defined in the most recent edition of the California Building Code, shall be inspected within six months of adoption of this section, and every six years thereafter by a licensed general contractor, licensed architect, licensed civil or structural engineer, or certified building inspector or building official who are not employees of the City of Berkeley to verify that the elements are in general safe condition, adequate working order, and do not exhibit signs of deterioration, decay, corrosion or similar damage that could pose a safety concern and there is no evidence of active water intrusion in concealed spaces of the inspected elements. The inspection schedule set forth above shall apply retroactively to the original enactment of the City's Exterior Elevated Elements inspection program on July 14, 2015; cyclical inspections shall be completed by March 31, 2022 and every six years thereafter.

- B.** Pursuant to the requirements of Code of Civil Procedure Section 5551, projecting exterior elevated wood and metal decks, balconies, landings, stairway systems, guardrails, handrails, or any parts thereof in weather-exposed areas of condominium projects containing 3 or more dwelling units shall be inspected by January 1, 2025, and then at least once every nine years. The inspection shall be conducted by a licensed structural engineer or architect of a random and statistically significant sample of exterior elevated elements for which the association has maintenance or repair responsibility.

The inspection reports shall comply with the requirements of Health and Safety Code Section 17973 Subsections (c) and (d). The property owner shall be responsible for complying with the repair requirements set forth in Health and Safety Code Section

17973 Subsections (g), (h) and (i). Property owners shall provide proof of compliance with this section by submitting an affidavit form provided by the City. The affidavit shall be signed by the responsible inspecting party and submitted to the Housing Code Enforcement Office. If the inspector indicates corrective work is required, a second affidavit form shall be submitted once the work is completed. For the purpose of this section, elevated "weather-exposed areas" mean those areas which are not interior building areas, extend beyond exterior walls and are located more than six feet above adjacent grade. For newly constructed residential buildings, inspections shall occur no later than six years following issuance of the Certificate of Occupancy for such buildings.

19.40.050 Mechanical and Electrical Requirements

501 – Heating

Habitable spaces shall be provided with heating facilities capable of maintaining a room temperature of 68° F at a point three feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe working condition and in accordance with Chapter 12 of the Building Code, the Mechanical Code, and all other applicable laws. Unvented fuel-burning heaters are not permitted. All heating devices or appliances shall be of an approved type. Hot water provided to plumbing fixtures shall be supplied at a temperature of not less than 110°F.

502 – Electrical Equipment

All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type. Every habitable room shall contain at least two electrical convenience outlets or one convenience outlet and one electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one electric light fixture. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with the Electrical Code and all applicable laws.

503 – Ventilation

Ventilation for rooms and areas and for fuel-burning appliances shall be provided as required in the Mechanical Code and in this Code. Where mechanical ventilation is provided in lieu of the natural ventilation required by Section 304.3 of this Code, such mechanical ventilating systems shall be maintained in operational condition during the occupancy of any building or portion thereof.

19.40.060 Exits

601 – Requirements Designated

All buildings or portions thereof shall be provided with exits, exitways and appurtenances as required by Chapter 10 of the Building Code or the Codes in effect at the time of construction, alteration or conversion.

- A.** Dwelling units or guestrooms shall have access directly to the outside or to a common or public corridor, passageway, or egress balcony.
- B.** Exit doors shall meet the minimum security requirements set forth in BMC 19.80.
- C.** Every sleeping room below the fourth story shall have at least one operable window or exterior door approved for emergency escape or rescue. Such windows shall be operable from the inside to provide a full clear opening without the use of separate tools.
- D.** All escape or rescue windows from sleeping rooms shall have the required minimum net clear openings and finished sill heights. Escape or rescue windows shall not be obstructed from the outside of the building.
- E.** Security bars, grills, screens and covers placed over sleeping room windows or bedroom exterior doors, which provide the required emergency escape or rescue, shall comply with the Building Code and shall be openable or removable from within the room without the use of a key, tool, special knowledge or effort. Any release mechanism shall be readily accessible and operable at all times. Window bars, grills, screens and covers shall not reduce the net clear opening of the emergency escape and rescue opening.
- F.** The installation of replacement glazing, or replacement windows shall be as required for new installations, when practical.
- G.** Means of egress including but not limited to stairs, ramps, walking surfaces, shall be maintained in safe working condition, shall not be obstructed in any manner and shall remain free of any material, matter or defect where its presence would obstruct or render the means of egress hazardous.
- H.** All handrails and guards shall be firmly fastened and capable of supporting code specified loads and shall be maintained in safe working condition.

19.40.070 Fire Protection

701 – General

All buildings or portions thereof shall be provided with the degree of fire-resistive construction as required by the Building Code for the appropriate occupancy, type of construction and location on property, and shall be provided with the appropriate fire-extinguishing systems or equipment required by Chapter 9 of the Building Code.

702 – Smoke Alarms

Smoke Alarms shall be installed per the manufacturer’s installation instructions in all residential occupancies and at the required locations as prescribed in the Building Code:

1. In each room used for sleeping purposes.
2. Outside each separate sleeping area in the immediate vicinity of the sleeping room.
3. On each story within a dwelling unit, including basements and habitable attic spaces. In units with split levels without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice provided that the lower level is less than one full story below the upper level.

703 – Carbon Monoxide Alarms

Carbon Monoxide Alarms are required in all dwelling and sleeping units where one of the following exist:

1. The unit contains a fuel-fired appliance or fireplace.
2. The unit has an attached garage with an opening that communicates with the unit.

Carbon Monoxide Alarms shall be installed per manufacturer’s installation instructions and at the required locations as prescribed in the Building Code:

1. Outside of each separate sleeping area in the immediate vicinity of the sleeping rooms.
2. On every occupiable level of a dwelling unit including basements and habitable attic spaces.
3. Inside each sleeping room where a fuel-burning appliance is located within the sleeping room or its attached bathroom.

Combination Alarms – Combination carbon monoxide/smoke alarms shall be an acceptable alternative to carbon monoxide alarms and smoke alarms.

19.40.080 Rental Housing Safety

801 – Findings

- A. Berkeley has an aging rental housing stock where the majority of rental units are over 50 years old and, thus, are more likely to violate housing safety codes

and endanger the health and safety of occupants and others. According to the 2020 census, 76% of all housing units, owner-occupied or rental units, are more than 50 years old.

- B.** There is a crisis in Berkeley's rental housing market reflected in a reduced vacancy rate which increases the likelihood that tenants may not complain about unsafe conditions for fear of losing their homes.
- C.** Berkeley has a large number of tenants who are immigrants or who have special needs which makes it more difficult for them to be aware of and enforce their rights to safe accommodations.
- D.** There have been several tragic deaths that may have been avoided had there been a regular residential rental inspection program, an exterior elevated elements inspection program, and a safety education program.
- E.** An inspection made by a property owner in order to submit a certification pursuant to Subsection 803A is a necessary service pursuant to California Civil Code Section 1954(b) where the tenant/occupant has refused entry to a City inspector acting pursuant to this chapter.

802 – Purpose

The purpose of the Rental Housing Safety Program (RHSP) is to increase the number of rental units in the City that meet housing safety standards established by the City in order to ensure the occupants' health and safety.

803 – Residential Rental Housing Safety Certification—City Inspection in lieu of Self-Certifications—Exemptions

- A.** All owners of residential real property containing rental units and not otherwise exempt pursuant to Subsection 803.C shall annually certify that their rental unit(s) meet housing safety standards established by the City or seek an inspection by the City pursuant to Subsection 803.B. Self-certification shall be made in the manner set forth below:
 - 1.** Owners shall inspect each rental unit owned using the Rental Housing Safety Program Certification Checklist form required by the City.
 - 2.** Owners shall provide a copy of the completed Rental Housing Safety Program Certification Checklist to each tenant whose rental unit has been inspected. If the owner is unable to certify compliance with all applicable provisions of the checklist, including by reason of refusal of entry by the tenant, in addition to providing the completed form to the tenant, the owner

shall submit a copy of the completed checklist to the City by email, mail or personal delivery. Owners shall provide the copy of the checklist to the tenant and, if applicable, a copy to the City within five days of completing the inspection and no later than July 1st of each year beginning with July 1, 2004.

3. Any tenant may request that the City verify the accuracy of the representations made by the owner in the checklist. Further, all checklists submitted to the City shall be considered public information.
- B. An owner or tenant may request that their residential rental unit(s) be inspected by the City to ascertain compliance with the housing safety standards. If the City is unable to conduct such inspection, the owner is nonetheless required to complete a checklist pursuant to Subsection 803.A. Such inspection may also determine compliance with all other applicable requirements relating to building safety.
- C. Newly constructed residential rental units shall be exempt from the requirements of Section 803 for a period of five years following issuance of the Certificate of Occupancy for such units.
- D. For those units where the City has determined that the tenant has refused entry to the owner to conduct the inspection necessary for completing the checklist, the City may seek a warrant for entry pursuant to California Code of Civil Procedure Sections 1822.51 and 1822.52

804 – Unlawful Alteration of Premises by Tenant/Occupant

It shall be a violation of this chapter for any tenant/occupant to modify, damage, destroy or otherwise alter their premises in a manner which renders the premises in a condition which the City has determined violates applicable laws enforced by the City to such an extent as to endanger the safety of the public or the occupants thereof and the tenant/occupant has failed to correct the violation after receiving written notice and being given a reasonable opportunity to do so.

805 – Proactive Inspection of Rental Units

The City Manager or their designee may periodically inspect every residential rental unit in any real property in the City provided that no residential rental unit shall be subject to a Rental Housing Safety Program inspection on more than a triennial basis where such unit complies with the annual self-certification requirement, unless an inspection is required in response to a request for service or the City reasonably believes that the property may be in violation of applicable laws or ordinances. Nothing contained herein affects the ability of the Berkeley Fire Department to conduct annual inspections pursuant to Berkeley Municipal Code Chapter 19.48. Entry for inspection shall be as a

result of either consent or execution of a warrant secured pursuant to California Code of Civil Procedure Sections 1822.51 and 1822.52.

806 – Reactive / Complaint Inspections

The City Manager or their designee may inspect those portions of residential rental properties, buildings, units or structures in response to a complaint. Any residential rental unit shall be inspected for code violations whenever information from the following sources indicates that a pertinent code violation may exist therein:

- A.** Complaint from a tenant that a code violation may exist;
- B.** Direct referrals for inspection from other City officials with code enforcement responsibilities or from officials of a federal, state, or local agency, or from officials with a public or private utility; or
- C.** Reports that the exterior condition of a residential real property containing rental housing reflects the existence of code violations.

807 – Certificate of Compliance Issued When

If, upon the proactive or reactive inspection by the City of a residential rental unit within any real property, no violations of applicable laws or ordinances are determined to exist, a Certificate of Compliance shall be issued. Said certificate shall be given to the owner, manager (if requested) and affected resident(s) and shall state that the determination may be subject to an informal review by the Building Official if any affected party seeks such review within ten (10) days of the date of issuance of the Certificate of Compliance.

808 – Correction of Violations Required

- A.** Whenever any proactive or reactive inspection results in a determination that a rental unit is in violation of applicable laws or ordinances, the inspector shall promptly give the owner, manager (if any) and affected resident(s) written Notice of Violation as set forth on Section 1002 of this Code. Said notice shall specify a reasonable time to correct the violation, and shall state that the determination may be subject to an informal review by the Building Official if any affected party seeks such review within ten (10) days of the date of issuance of the Notice of Violation.
- B.** If the violation is corrected within the time specified, the owner, manager (if any) and resident(s) shall be so notified in writing, and a Certificate of Compliance shall be issued.

- C. If the violations have not been corrected, enforcement, including reinspections, will continue until all violations are corrected.

809 – Violations

Any person who fails to comply with any provisions of Section 19.40.080 after receiving written Notice of Violation(s) and being given a reasonable opportunity to correct such violation(s) shall be deemed to be in violation of the Chapter and shall be subject to criminal sanctions and civil remedies pursuant to Subsection 810.

810 – Penalties

- A. Any person violating any provision or failing to comply with any of the requirements of Section 19.40.080 shall be deemed guilty of an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code.
- B. The City Attorney may bring a civil action to seek redress for a violation(s) under Section 19.40.080 on behalf of the City. In any such action, the City shall recover civil penalties in an amount not to exceed \$500 for each violation and any other relief the court deems proper.

In any civil action filed pursuant to this subsection where the violation of Section 19.40.080 is declared to be a public nuisance, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs; provided that, pursuant to Government Section 38773.5, attorneys' fees shall only be available in an action or proceeding in which the City has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

- C. Any tenant may bring a civil action to establish that the owner of the property from which the tenant rents a dwelling unit has failed to provide the tenant with a copy of the Rental Housing Safety Program Certification Checklist or submit a copy of the Checklist to the City pursuant to Subsection 803.A.2. Such action may not be maintained where the City Attorney has commenced or is prosecuting an action against such violation. In any such action, the tenant shall recover civil penalties in an amount not to exceed \$500 for each violation.

In any action brought under this subsection, the court shall award reasonable attorneys' fees to any prevailing plaintiff. Any aggrieved person who initiates a civil action under this subsection shall file a copy of his or her complaint against the property owner and a copy of the court's decision with the City.

19.40.090 Substandard Housing

901 – Substandard Housing – Defined

Pursuant to Health and Safety Code Section 17920.3 or its successor, any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(a) Inadequate Sanitation shall include, but not be limited to, the following:

- (1)** Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.
- (2)** Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
- (3)** Lack of, or improper kitchen sink.
- (4)** Lack of hot and cold running water to plumbing fixtures in a hotel.
- (5)** Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
- (6)** Lack of adequate heating.
- (7)** Lack of, or improper operation of required ventilating equipment.
- (8)** Lack of minimum amounts of natural light and ventilation required by this code.
- (9)** Room and space dimensions less than required by this code.
- (10)** Lack of required electrical lighting.
- (11)** Dampness of habitable rooms.
- (12)** Infestation of insects, vermin, or rodents as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the infestation can be determined by a code enforcement officer, as defined in Section 829.5 of the Penal Code, upon successful completion of a course of study in the appropriate subject matter as determined by the local jurisdiction.
- (13)** Visible mold growth, as determined by a health officer or a code enforcement officer, as defined in Section 829.5 of the Penal Code, excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use.
- (14)** General dilapidation or improper maintenance.
- (15)** Lack of connection to required sewage disposal system.
- (16)** Lack of adequate garbage and rubbish storage and removal facilities, as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the lack of adequate garbage and rubbish removal facilities can

be determined by a code enforcement officer as defined in Section 829.5 of the Penal Code.

(b) Structural Hazards shall include, but not be limited to, the following:

- (1) Deteriorated or inadequate foundations.
- (2) Defective or deteriorated flooring or floor supports.
- (3) Flooring or floor supports of insufficient size to carry imposed loads with safety
- (4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
- (5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
- (6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.
- (7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.
- (8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
- (9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(c) Any Nuisance.

(d) Hazardous Wiring. All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.

(e) Hazardous Plumbing. All plumbing, except plumbing that conformed with all applicable laws in effect at the time of installation and has been maintained in good condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and that is free of cross connections and siphonage between fixtures.

(f) Hazardous Mechanical Equipment. All mechanical equipment, including vents, except equipment that conformed with all applicable laws in effect at the time of installation and that has been maintained in good and safe condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.

(g) Faulty Weather Protection, which shall include, but not be limited to, the following:

- (1) Deteriorated, crumbling, or loose plaster.
- (2) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors.
- (3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Fire Hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) Faulty Materials of Construction. All materials of construction, except those that are specifically allowed or approved by this code, and that have been adequately maintained in good and safe condition.

(j) Hazardous or Insanitary Premises. Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Inadequate Maintenance. Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(l) Inadequate Exits. All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

(m) Inadequate Fire Protection. All buildings or portions thereof that are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof that conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) Improper Occupancy. All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.

(o) Inadequate Structural Resistance to horizontal forces.

"Substandard building" includes a building not in compliance with Health and Safety Code Section 13143.2.

However, a condition that would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of those requirements in effect at the time of construction, alteration, or conversion.

The list of conditions, hazards and uses of property determined to be substandard is not intended to be exclusive. The Building Official is authorized to declare other and additional conditions, hazards and uses of property to be substandard if they endanger the health and safety of the residents or the public pursuant to this Code.

902 – Substandard Building – Nuisance

Buildings or portions thereof which are determined to be substandard, which substantially endanger the health and safety of residents or the public, as defined in Health & Safety Code §17920.3 or its successor are hereby declared to be public nuisances, which shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified in this Code and Chapters 1 and 19.44 of the Berkeley Municipal Code.

19.40.100 Notices of the Building Official

1001 – Commencement of Proceedings

When the Building Official or an authorized representative has inspected or caused to be inspected any building subject to this Code and has found and determined that such building either has substandard conditions or is a substandard building which substantially endangers the health and safety of residents or the public, the Building Official may commence proceedings to cause the repair, rehabilitation, vacation or demolition of the building. Depending on the severity of conditions, the Building Official may begin enforcement efforts by issuing one or more Notices of Violation as set forth in Sections 1002 or may proceed immediately to issuing a Notice and Order including a declaration of substandard building as set forth in Section 1003.

If substandard conditions are not abated following issuance of one or more Notices of Violation or if conditions deteriorate to the point they substantially endanger the health and safety of residents or the public, the Building Official may proceed to issuing a Notice and Order.

1002 – Notice of Violation

1002.1 Issuance of Notice of Violation. Whenever an inspector appointed by the Building Official inspected a building or portion thereof and determined that a violation of this Code exists, the inspector shall issue a written Notice of Violation directed to the owner of record of the property. For the purpose of this Code, complying with a Notice of Violation is considered voluntary code compliance, not subject to administrative penalties or appeals to the Commission. The intent of issuing a Notice of Violation is to advise an owner of each violation and of each action the owner is required to take to remedy the violation. A re-inspection shall be scheduled to verify correction of the violations.

The Notice of Violation shall contain:

- A. The street address sufficient for identification of the premises upon which the building is located.
- B. Description of the codified violation(s).
- C. The specific action required to correct the violation and a request that the violations be corrected within the specific time period listed in the Notice.
- D. The scheduled re-inspection date and time.
- E. The Notice shall specify that any permits, if required, be secured and the work physically commenced and completed within such time as the Building Official shall determine is reasonable under all of the circumstances, but not less than 30 days, unless an immediate hazard exists

1002.2 Service of Notice of Violation. The Notice of Violation may be served by US mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at their last known business or residence address as the same appears in the public records of the City or other records pertaining to the matter to which such Notice is directed, or may be served personally on the owner, or if the owner is not present, a copy of the Notice may be posted on the property. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

1002.3 Compliance Re-inspections. Compliance re-inspections shall be conducted to verify that the violations identified on the Notice of Violation have been abated. Violations not noted on the initial Notice of Violation, but discovered during any re-inspection due to subsequent activities, damage or deterioration, shall also be subject to correction.

1002.4 Inspection Service Fees. No inspection fees shall be charged for the initial housing inspection or inspection report. If violations have been verified to be corrected at the time of the first re-inspection, no re-inspection fees shall be charged. If the violations have not been corrected, a fee shall be assessed for the first and subsequent re-inspections, in accordance with the fee schedule established by Council.

1002.5 Recordation of Notice of Violation. If compliance with the Notice of Violation is not obtained within the time specified therein, the Building Official may file in the Office of the County Recorder a Notarized Statement describing the property and certifying (i) that the building is in violation of Berkeley Municipal Code, and (ii) that the owner has been so notified. The notarized statement shall include the information set forth in Subsections 1002.1.B and 1002.1.C of this Code. Whenever the cited corrections are completed and any outstanding inspection service fees paid, the Building Official shall

file a new Notarized Statement with the County Recorder certifying that all required corrections have been made so that the building is no longer in violation of Berkeley Municipal Code.

1003 – Notice and Order

1003.1 Issuance of Notice and Order. Whenever a building, or portion thereof, has been determined to be a substandard building, which substantially endangers the health and safety of residents or the public, either due to the severity of substandard conditions or due to failure to repair pursuant to proceedings specified in Section 1002, the Building Official shall issue a Notice and Order directed to the owner of record of the building.

The Notice and Order shall contain:

- A. The street address and a legal description sufficient for identification of the premises upon which the building is located.
- B. A statement that the Building Official has found the building to be a substandard building substantially endangering the health and safety of residents or the public, with a brief and concise description of the conditions which render the building substandard under the provisions of Sections 901 and 902 of this Code.
- C. A statement of the action required to be taken as determined by the Building Official. If in the opinion of the Building Official, the substandard conditions can be corrected or abated by repair thereof, the Notice shall state the repairs which will be required.
 1. If the Building Official has determined the building or structure must be repaired, the Order shall require that all required permits be secured and the work physically commenced within such time (not to exceed 60 days from the date of the Order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances, but not less than 30 days.
 2. If the Building Official has determined that the building or structure must be vacated, the Order shall require the building or structure be vacated within a certain time from the date of the Order as determined by the Building Official to be reasonable, but not less than 30 days.
 3. If the Building Official has determined the building or structure must be demolished, the Order shall require that the building be vacated within such time as the Building Official shall determine reasonable (not to exceed 60 days from the date of the Order), that all required permits be secured within

60 days from the date of the Order and the demolition be completed within such time as the Building Official shall determine is reasonable, but in no event less than 30 days.

- D. Statements advising that if any required repair or demolition work is not commenced within the time specified, the Building Official may:
 - 1. Order the building vacated and posted to prevent further occupancy until the work is completed; and
 - 2. Proceed to cause the work to be done and charge the costs thereof against the property or its owner.
- E. Statements advising that:
 - 1. Any person having any record or title or legal interest in the building may appeal the Notice and Order or any action of the Building Official to the Commission as set forth in Chapter 19.44 of this Code; and
 - 2. Failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter. The Notice shall include a copy of Chapter 19.44 of this Code.
- F. A statement that, in accordance with Revenue & Taxation Code Sections 17274 and 24436, a tax deduction may not be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year.
- G. A determination whether the repairs necessary to abate the violation(s) can reasonably be accomplished without relocation of the tenant household in possession of the unit or room as set forth in Chapter 13.84 Section 13.84.050 of the Berkeley Municipal Code.

1003.2 Service of Notice and Order. The Notice and Order, and any amended or supplemental notice and order, shall be served upon the record owner, and posted on the property; and one copy thereof shall be served on each of the following if known to the Building Official or disclosed from official public records; the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the Building Official to serve any person listed above shall not invalidate any proceeding hereunder as to any person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section. In addition, the Notice and Order shall be served on tenants.

1003.3 Method of Service. Service of the Notice and Order shall be made upon all persons entitled thereto either personally or by mailing a copy of such Notice and Order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last Equalized Assessment Roll of the County or as known to the Building Official. If no address of any such person so appears or is known to the Building Official, then a copy of the Notice and Order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such Notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing. Service on tenants may be by first class mail.

1003.4 Proof of Service. Proof of Service of the Notice and Order shall be certified to at the time of service by a written declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the Notice and Order retained by the Building Official, either as an electronic record or a hard copy. The proof of service may be signed with an electronic signature.

1003.5 Appeals. Orders of the Building Official may be appealed as set forth in Chapter 19.44. For purposes of this Code, orders of the Building Official, or, on appeal, of the Commission or City Council, shall be final as set forth in Chapter 19.44.

1004 – Repair, Vacation and Demolition

In ordering the repair, vacation or demolition of any substandard building or structure, the following standards shall be followed:

- A. In general, any building or structure or portion thereof declared substandard shall be repaired in accordance with the current Building Code or other current code applicable to the type of substandard conditions requiring repair.
- B. If the building or structure, or portion thereof, substantially endangers the health or safety of its occupants or the public, it shall be ordered to be vacated, secured and maintained against entry, and the Building Official or Commission shall require its expeditious repair.
- C. If a building or structure constitutes an imminent and substantial danger to the health or safety of the public, Chapter 1.24 of the Berkeley Municipal Code shall apply.
- D. If an entire building or structure is declared to be substandard the owner may elect to demolish it instead so long as the right to such election is preserved by state law.

1005 – Notice to Vacate

1005.1 Posting. Every Notice to Vacate shall, in addition to being served as provided in Sections 1003.2 – 1003.5, be posted at or upon each main exit of the building, and shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official of City of Berkeley

1005.2. Compliance. Whenever such Notice is posted, the Building Official shall include a notification thereof in the Notice and Order issued under Section 1003, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish, or remove such building under Permit. No person shall remove or deface any such Notice after it is posted until the required repairs or demolition have been completed and the Building Official has approved occupancy of the building. Any person violating this subsection shall be guilty of a misdemeanor.

1006 – Recordation of Notice and Order

If compliance is not obtained with a final Order within the time specified therein, the Building Official shall file in the Office of the County Recorder a Certified Statement describing the property and certifying (i) that the building is a substandard building, and (ii) that the owner has been so notified. The certified statement shall include the information set forth in Subsections 1003.1.B and 1003.1.C. The Proof of Service required by Section 1003.4 shall also be recorded with the Notice and Order. Whenever the corrections ordered are thereafter completed, or the building demolished so that it no longer exists as a substandard building, the Building Official shall file a new Certified Statement with the County Recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer substandard, whichever is appropriate.

1007 – Post-Disaster Safety Assessment

After a natural or human-caused disaster event, the Building Official or an authorized representative shall conduct a rapid safety assessment inspection of a damaged or potentially damaged building or portion thereof to evaluate safety and habitability for continued use and to determine the need for restricted or prohibited entry. Upon completion of a safety assessment, the Building Official or an authorized representative shall post the appropriate placard at each entry point to a building following the procedure set forth in Berkeley Municipal Code 19.28.020 Section 116.6.

19.40.110 Enforcement of Orders

1101 – Failure to Obey Order

1101.1 Failure to Obey Order. After any Order made pursuant to Sections 1003 or 1005 of this Code has become final, no person to whom any such Order is directed shall fail, neglect, or refuse to obey any such Order.

1101.2 Initiation of Abatement Proceedings. After any Order made pursuant to Sections 1003 or 1005 of this Code has become final, and the person to whom it is directed fails, neglects or refuses to obey such Order within the period set forth therein, the Building Official may institute any appropriate action to abate such building or structure as a public nuisance. However, if such building is encumbered by a mortgage or deed of trust, of record, the mortgagee or beneficiary under such deed of trust may, within 15 days after the expiration of the period set forth in the Order, comply with the requirements of the Order, in which event the cost to such mortgagee or beneficiary shall be added to and become a part of the lien secured by said mortgage or deed of trust and shall be payable at the same time and in the same manner as may be prescribed in said mortgage or deed of trust for the payment of any taxes advanced or paid by said mortgagee or beneficiary for and on behalf of said owner.

1101.3 Repair, Vacation, Demolition. In addition to any other remedy herein provided, the Building Official may vacate, repair or demolish the building, take any other appropriate action, or institute any other appropriate proceeding, if any of the following occur:

1. The repair work is not done as scheduled;
2. The owner does not make a timely choice of repair or demolition; or
3. The Building Official determines that the owner has selected an option which cannot be completed within a reasonable period of time for any reason, including, but not limited to, an outstanding Judicial or Administrative Order.

In making the election permitted by this section, the Building Official shall give preference to the repair of the building whenever it is economically feasible to do so, as long as it is not necessary to repair more than 50% of the building, and shall give full consideration to the needs for housing as expressed in the City of Berkeley Housing Element. The cost of any repair or demolition work may be recovered in the manner hereinafter provided in this Code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

1102 – Extension of Time to Perform Work

Upon receipt of an application from the person required to conform to the Order and by agreement of such person to comply with the Order if allowed additional time, the Building Official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the Building Official determined that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect or extend the time to appeal the Notice and Order.

1103 – Interference with Repair or Demolition Work Prohibited

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this Code, or with any person to whom such building has been lawfully sold pursuant to the provisions of this Code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this Code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this Code.

19.40.120 Performance of Repair or Demolition

1201 – Performance

1201.1 Procedure. When any repair or demolition is done pursuant to Section 1101.3 of this Code, the Building Official shall cause the work to be accomplished by City personnel or by private contract under the direction of the Building Official, subject to the City of Berkeley Charter. Plans and specifications therefore may be prepared by the Building Official, or the Building Official may employ such architectural and engineering assistance on a contract basis as may be deemed reasonably necessary.

1201.2 Costs. The costs of such work shall be paid from the Repair and Demolition Fund, and may be recovered from the owner as set forth herein.

1202 – Repair and Demolition Fund

1202.1 Establishment of Repair and Demolition Fund. The City Council may establish a special revolving fund to be designated as the Repair and Demolition Fund. Subject to the City of Berkeley Charter, payments shall be made out of said Fund upon the demand of the Building Official to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of substandard buildings.

1202.2 Maintenance of Fund. The City Council may at any time transfer to the Repair and Demolition Fund, out of any money in the General Fund of the City, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the Repair and Demolition Fund and shall be repaid out of the proceeds of the collections herein after provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the Treasurer of the City, who shall credit the same to the Repair and Demolition Fund.

19.40.130 Recovery of Cost of Repair or Demolition

1301 – Recovery of Costs

1301.1 Account and Report of Expense. The Building Official shall keep an itemized account of the expense incurred by the City in the repair or demolition of any building done pursuant to the provisions of Section 1101.3 of this Code. Upon the completion of the repair or demolition, the Building Official shall prepare a report specifying the work done and the cost thereof. The report shall be verified by the Building Official, and shall show the itemized and total reasonable gross and net expense of the actions taken, including the expense of inspections, repairs or demolition and any other costs incurred, as well as any proceeds from salvage. The report shall also contain a statement advising:

1. That any person having any record or title or legal interest in the building may appeal from the report and demand of the Building Official to the Commission as set forth in Chapter 19.44 of this Code, and
2. That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

The notice shall include a copy of Chapter 19.44 of this Code.

1301.2 Posting and Service. The Building Official shall post this report and a demand for payment in a conspicuous location at the property, and shall serve them upon the record owner, and each of the following if known to the Building Official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located.

1301.3 Proof of Service. Proof of service of the report and demand shall be certified to at the time of service by a written declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the Notice and Order retained by the Building Official, either as an electronic record or a hard copy.

The failure of the Building Official to serve any person required herein to be served shall not invalidate any proceeding hereunder as to any person duly served or relieve any such person from any duty or obligation imposed by the provisions of this Section.

1301.4 Appeals. The report and demand may be appealed by any person interested in or affected by the proposed charge as set forth in Chapter 19.44. For purposes of this Code, the report and demand of the Building Official, or, on appeal, of the Commission or City Council, shall be final and effective as set forth in Chapter 19.44.

1302 – Personal Obligation and Special Assessment

Charges confirmed and imposed in a final order by the City shall be a personal obligation of the property owner and an assessment against the property involved under Government Code Section 38773.1. The City may collect these charges in any manner permitted by law, and may elect to change the nature of the assessment as set forth in Section 1.24.140 of the Berkeley Municipal Code.

1303 – Repayment of Repair and Demolition Fund

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale or in any other manner shall be deposited in the Repair and Demolition Fund.

19.40.140 Recovery of Costs for Housing Code Enforcement and Administration

1401 – Fees

1401.1 Establishment of Fees. The City Council may by resolution establish fees for the enforcement and administration of the Berkeley Housing Code and the Rental Housing Safety Program.

1401.2 Recovery of Delinquent Housing Inspection Program Fees and Administrative Citations. Unpaid housing inspection program fees established pursuant to this section, including annual flat fees, inspection service fees, late payment fees, administration lien fees, and administrative citations, which are more than 30 days delinquent shall constitute a debt that is collectible in any manner allowed by law, including, but not limited to: (1) the filing of a civil action in the Alameda County superior court; and/or (2) the recordation of a lien with the Alameda County recorder's office provided the responsible person has a legal interest in the property on which the violation was located; and/or (3) by means of a special assessment with Alameda County for inclusion on property taxes provided the responsible person has a legal interest in the property on which the violation was located; and/or (4) by denying the issuance or renewal of any city approval, license, entitlement, or permit to any responsible person who has failed to pay fees that are imposed pursuant to this section.

The remedies may be concurrently used to collect unpaid fees. Such delinquent fees or citations shall be a lien or special assessment on the property.

1401.3 – Appeals.

- A.** Any person aggrieved by any decision of an administrative officer or agency with respect to the amount of fees charged under the Rental Housing Safety Program, may appeal to the City Manager by filing a notice of appeal with the City Manager within 14 days of the billing notice, setting forth in full the grounds of the appeal.
- B.** Said appeal shall be scheduled for hearing by the City Manager or his/her designee, and the appellant shall be given no less than 14 days' notice of the time and place of said hearing.
- C.** The appellant may appear at the time and place fixed in the notice and present his/her appeal. If the appellant fails to appear in compliance with the notice or to obtain a continuance, the appellant shall be deemed to have waived any and all grounds of appeal that could have been asserted against the City.
- D.** Within 30 days after the conclusion of the hearing, the City Manager or his/her designee shall notify the appellant in writing of the decision, which shall be final. If the decision establishes an amount due and payable, the total amount shall be due and payable as of the date the original fee was due and payable, together with any penalties that may be due.

1401.4 – Lien or Special Assessment Procedures.

Unless a different procedure is authorized elsewhere in this code, where the code authorizes the city to record a lien or impose a special assessment for any unpaid fee, citation, fine, cost, charge, or other monies, the following procedures shall apply:

1. Notification Procedure

A lien may be recorded or a special assessment may be imposed upon real property subject to the Rental Housing Safety Program if the unpaid fees or citations are not paid within 30 calendar days of written Notice thereof.

- A.** Such Notice must have advised the owner(s) of the subject property in plain language of the city's intent to record a lien or impose a special assessment if the fee, citation, fine or other monies were not paid within 30 calendar days, the amount of the proposed lien, a description of the basis for the amount(s) comprising the lien, and notice that if the owner contests the costs, they have ten calendar days from the date of service of the notice to file objections to the costs and request a hearing on the reasonableness of the costs. The failure of the owner to request a hearing within ten calendar days of the date

of service of the Notice shall constitute a waiver of the owner's right to a hearing.

- B. Service of Notice under this section shall be by first class and certified mail to the address of record of the owner of the property per Alameda County's Assessor's Office.
- C. Where the City Council designates another hearing body should the property owner(s) exercise their right to be heard, the hearing body shall make a written recommendation to the City Council that shall include factual findings based on evidence introduced at the hearing. The City Council may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the City Council.

2. Liens

- A. The lien shall be recorded in the Alameda County recorder's office and from the date of recording shall have the force, effect, and priority of a judgment lien.
- B. A lien authorized by this section shall specify the amount of the lien for the city, the name of the city department or division on whose behalf the lien is imposed, the date upon which the lien was created, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.
- C. In the event that the lien is discharged, released, or satisfied, notice of the discharge shall be recorded by the city.
- D. The city may recover from the property owner any costs incurred regarding the processing and recording of the lien.

3. Special Assessments

- A. It shall be the duty of the City Manager (or designee thereof) to submit the charges to the Alameda County Auditor – Controller Agency to add the amounts of the assessment, or assessments, to the next regular property tax bills.
- B. The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.
- C. The amount of a special assessment shall also constitute a personal obligation of the property owner.

1401.5 Failure to Comply. Any person violating any provision or failing to comply with any of the requirements of the Berkeley Housing Code shall be deemed guilty of an infraction as set forth in Chapter 1.20 of the Berkeley Municipal Code.

Section 3. This ordinance shall become effective on January 1, 2023.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Jesse Arreguin
Mayor

Leah Simon-Weisberg
Chair, Berkeley Rent Board

Tenant Habitability Plan for City of Berkeley Proposal Discussion

What is the purpose of Tenant Habitability Plan:

1. Prevent permanent displacement when **substantial repairs** are needed;
2. Allow and facilitate substantial repairs while requiring mitigation of the possible negative impact on tenants of said repairs
3. Prevention of unsafe and harassing approaches to construction whether for the purposes of new construction or substantial repairs while tenants remain at property.
4. Create objective standards and processes to best prevent unsafe and harassing approaches to construction.
5. Respond to the recent phenomena of infill projects where tenants are in occupancy. (Harper Street)

When does a landlord need to fill out a tenant habitability plan?

Situations of work inside, outside or adjacent to occupied unit:

1. Planned Repair by landlord
2. Planned Construction by landlord
3. Requested Repairs by tenant
4. Emergency Repairs
5. Tenant complains about unsafe or nuisance construction

Timeframes for notification can be different for the different kinds of work

Option 1) An approved tenant habitability plan is required before **any work** is done to a property with a building that has one or more residential dwelling units. (Simple check-box if no buildings are tenant occupied).

Option 2) RHSP definition: An approved tenant habitability plan is required before **any work** to any dwelling which is rented, leased, let or hired out to be occupied for consideration.

What “work” should trigger the requirement that the landlord must fill out form and provide mitigation?

Menu of Options:

1. Any work requiring a permit.
2. Substantial repair and mediation: seismic retrofits, elevator repairs, and when hazardous materials such as lead paint or asbestos are being remediated.
3. Any work in the following section:

Berkeley Code Sections Referenced:

Berkeley Code sections that could be referenced: Title 19 – Buildings and Construction.

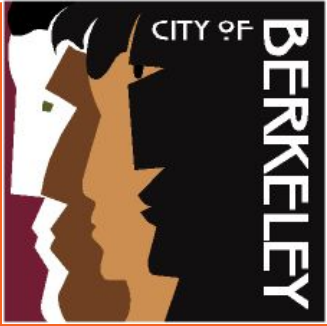
- Berkeley Building Code BMC Chapter 19.29
 - Berkeley Residential Code BMC Chapter 19.30
 - Berkeley Electrical Code BMC Chapter 19.32
 - Berkeley Mechanical Code BMC Chapter 19.34
 - Berkeley Plumbing Code BMC Chapter 19.36
 - BMC Chapter 19.38: Seismic Hazard Mitigation Program for Unreinforced Masonry Buildings
 - BMC Chapter 19.39: Potentially Hazardous Buildings Containing Soft, Weak, or Open Front Stories
 - BMC Chapter 19.50: Elevators-buildings with ten or more units and two or more stories
4. Requiring habitability plan submittal when a property with a tenant occupied structure receives a **notice of violation for code violations** including unpermitted work and other housing code violations. In Berkeley work without permit can be cited by either a building inspector or a housing inspector, both of which are in the Planning Department.
 5. Requiring mitigations when work is being done **adjacent to a tenant’s unit** for a sustained period of time.
 6. Requiring a habitability plan for work on properties that have a structure with a **dwelling unit will cover the ADU situations** we heard about where a tenant could not access their unit or tenant parking spaces were temporarily or

permanently removed due to ADU construction. Building permits are required for all ADUs so no specific requirement for ADUs needs to be included to cover this situation.

Who should Administer the program?

Berkeley Departments that could administer habitability plan requirements:

- Permit Service Center (within Planning Department)
- Housing Code Enforcement and Rental Housing Safety Staff (both are also within Planning Department)
- HHCS (as long as they are involved in Relocation Ordinance)
- Rent Board, Rent Board Hearings unit best to assist with hearing/complaint process



Jesse Arreguin
Mayor

Leah Simon-Weisberg
Chair
Berkeley Rent
Stabilization

UPDATE ON TENANT HABITABILITY AND PLAN IMPLEMENTATION

Revise Berkeley B.M.C. Chapter 13.84 (“Relocation Ordinance”) to better protect tenants during construction due to necessary repairs, new construction of ADUs and other additional housing units.

4x4 Housing Task Force, July 12, 2022

REVIEW

1. We reviewed memo accessing the gaps in our relocation ordinance when tenants are facing **repairs in their units and construction**
 2. Reviewed **Recommendations**
-

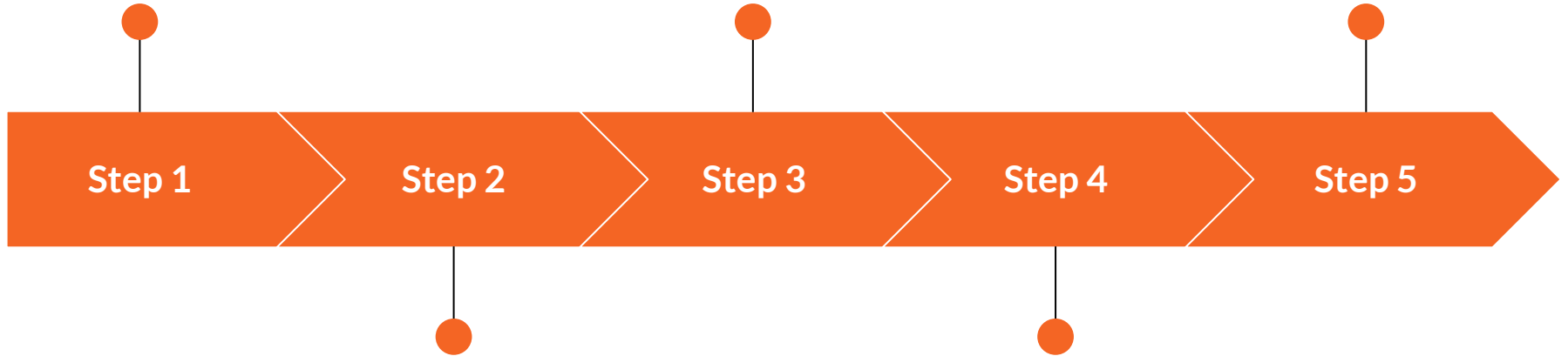
Goals for next meeting

Reminder of what a Tenant Habitability Plan

Provide THP to
permitting agency

Landlord may apply for
permit

Construction begins!



Step 1

Step 2

Step 3

Step 4

Step 5

5 days for agency to
approve or deny based
on objective standards

Approved THP served on tenant 60 days before
work can commence with Notice of Primary
Renovation Work;
THP plan, summary of plan and relocation option
if work will last more than 30 days.

Tenant Habitability Plan City of Berkeley Proposal

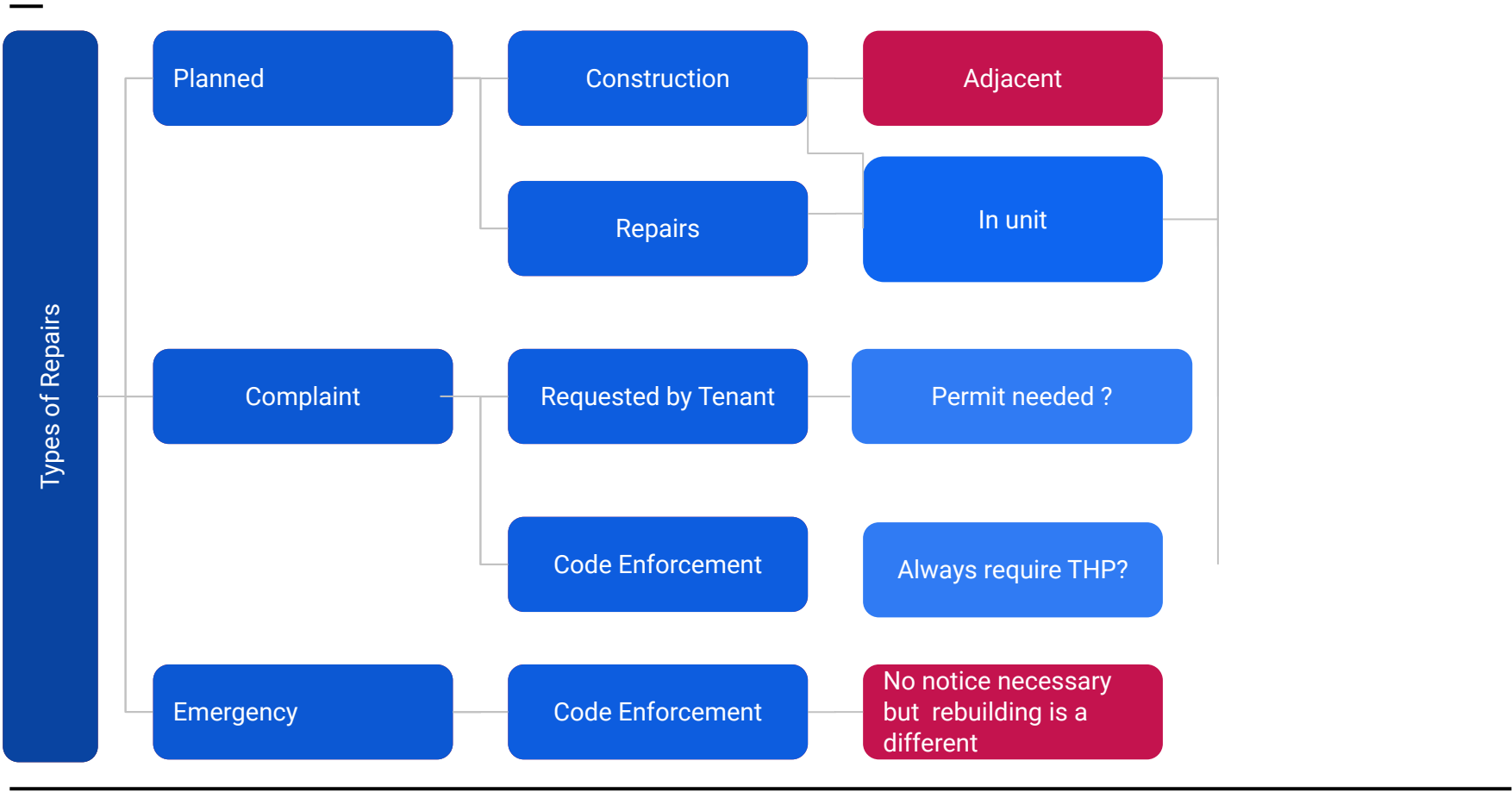
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5. Respond to the recent phenomena of _____ infill projects where tenants are in occupancy. (Harper Street)

Context and consideration:

Situations of work inside, outside or adjacent to occupied unit:

- 1. Planned Repair by landlord**
 - 2. Planned Construction by landlord**
 - 3. Requested Repairs by tenant**
 - 4. Emergency Repairs**
 - 5. Tenant complains about unsafe or nuisance construction**
-



When does a landlord need to fill out a tenant habitability plan?

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•

Menu of Work

-
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 2. Substantial repair and mediation: seismic retrofits, elevator repairs, and when hazardous materials such as lead paint or asbestos are being remediated
-

Menu of Work

3. Any work in the following section:

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Berkeley Code sections that could be referenced: Title 19 – Buildings and Construction.

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 - BMC Chapter 19.50: Elevators-buildings with ten or more units and two or more stories
-

Menu

-
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6. Requiring a habitability plan for work on **properties that have a structure with a dwelling unit will cover the ADU situations** we heard about where a tenant could not access their unit or tenant parking spaces were temporarily or permanently removed due to ADU construction. Building permits are required for all ADUs so no specific requirement for ADUs needs to be included to cover this situation.

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- Permit Service Center (within Planning Department)
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 - HHCS (as long as they are involved in Relocation Ordinance)
 - Rent Board, Rent Board Hearings unit best to assist with hearing/complaint process
-

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Direction for next steps?

DRAFT

19.40.125 Tenant Habitability Plan

1251 – Purpose and Intent

In its adoption of Section 19.40.125 *et seq.* of this Code, the City recognizes that construction and repairs on Rental Units or adjacent to such Rental units can create hardships on tenants; especially those who are senior citizens, persons on fixed incomes and low and moderate-income households. The City also recognizes that there is a shortage of decent, safe, and sanitary affordable housing in Berkeley. The City further declares, in its adoption of section 19.40.125 *et seq.* of this Code, that it is in the public interest of the people of Berkeley to protect and promote the existence of sound and wholesome residential buildings, dwelling units, and neighborhoods by the adoption and enforcement of such standards, regulations, and procedures as will remedy the existence or prevent the development or creation of dangerous, substandard, or unsanitary and deficient residential buildings and dwelling units.

However, both preventative maintenance as well as code enforcement related maintenance sometimes involves the replacement or substantial modification of major building systems or the abatement of hazardous materials and, by its very nature, such work generally makes rental units untenable, as defined by California Civil Code Section 1941.1, on a temporary basis.

Additionally, through the passage of AB 68, AB 670, AB 881, SB 13, and SB 9 _____ the State of California has passed several laws which have streamlined the ability to build on lots and in and next to residential units that are already occupied by residential housing. These provisions have recently been extended to include not only units built in owner-occupied lots but also investment properties owned by developers who are not local to the area.

This article is adopted to facilitate landlord investment in renovations and the construction of new housing without subjecting tenants to either untenable housing conditions during such renovation work or forced permanent displacement. The tenant habitability program requires landlords to mitigate such temporary untenable conditions, either through actions to ensure that tenants can safely remain in place during construction, or through the temporary relocation of tenants to alternative housing accommodations. These two options should not be regarded as mutually exclusive but rather as complementary approaches that might be appropriate to different stages of the renovation process.

1252 – Definitions

The following words and phrases, whenever used in this article, shall be construed as defined in this section. Words and phrases not defined here shall be construed as defined in Section 13.76.040 of this Code if defined in that section.

Construction means construction on tenant occupied buildings, lots, or adjacent units. This includes elective upgrades that do not arise to Substantial Repairs but require permits,

construction of entirely new units or division or creation of additional units from already existing residential units.

Emergency Repairs. Repairs that must be completed in less than 48 hours shall be exempt from the habitability plan process.

Repairs in Response to Notice of Violation means repairs that must be completed to correct a notice of violation.

Notice of Construction on Occupied Buildings

Notice of Substantial Repairs or Construction means a written notice, served by the landlord upon a tenant or tenant household at least 60 days prior to the commencement of any substantial repairs or Construction that uses a form established by the [responsible agency], and advises the tenant of forthcoming Substantial Repairs or Construction, the impact of such work on the tenant, and measures the landlord will take to mitigate the impact on the tenant.

Substantial Repairs means work performed either on a rental unit or on the building containing the rental unit that brings the unit into compliance with the Housing Code by making substantial repairs and that cannot be made while the tenant lives there improves the property by prolonging its useful life or adding value, and involves either or both of the following:

1. Replacement or substantial modification of any structural, electrical, plumbing or mechanical system that requires a permit under the Berkeley Municipal Code.
2. Abatement of hazardous materials, such as lead-based paint and asbestos, in accordance with applicable federal, state and local laws.
3. Repairs required by Building Official in Notice of Violation pursuant to 19.40.100

Temporary Relocation means the payment of relocation costs or the providing of a comparable rental unit in accordance with a Tenant Habitability Plan and Berkeley's Relocation Services and Pavements For Residential Tenant Households Ordinance (Berkeley Mun. Code § 13.84.010 *et seq.*) The temporary relocation of a tenant from his/her permanent place of residence shall not constitute the voluntary vacation of the unit and shall not terminate the status and rights of a tenant, including the right to reoccupy the same unit, upon the completion of the Primary Renovation Work and any Related Work.

1253 – Procedure for Undertaking Substantial Repairs and Construction on Occupied Properties

1253.1 Building Permits

A. No landlord shall undertake Substantial Repairs or commence Construction on Property without first obtaining all necessary permits, pursuant to this Code.

B. The Planning Department shall only clear a landlord's application for a permit for Substantial Repairs or Construction on Occupied Properties if all of the following conditions have been met:

1. The landlord has submitted a Tenant Habitability Plan to the [responsible agency], in accordance with sections 1253.2 and 1253.3, which the [responsible agency] finds to adequately mitigate the impact of the Substantial Repairs or Construction upon affected tenants; and
2. The landlord has submitted a declaration documenting service to affected tenants of both a Notice of Substantial Repairs and a copy of the non-confidential portions of the Tenant Habitability Plan in accordance with section 1254.
3. The landlord has paid any plan submission fee established by regulation under Berkeley Municipal Code section 13.76.060(F).

1253.2 Tenant Habitability Plan

A. At a minimum, a Tenant Habitability Plan shall provide the following information, together with any other information Berkeley's [responsible agency] deems necessary to ensure that the impact of Substantial Repairs and Construction or any related work upon affected tenants is adequately mitigated:

1. Identification of the landlord, the general contractor responsible for the Substantial Repairs or Construction, and any specialized contractor responsible for hazardous material abatement, including but not limited to lead-based paint and asbestos.
2. Identification of all affected tenants including the current rent each tenant pays and the date of each tenant's last rent increase. In accordance with California Civil Code Sec. 1798 et seq., information regarding tenants shall be considered confidential.
3. Description of the scope of work covering the Substantial Repairs or Construction. Such description shall address the overall work to be undertaken on all affected units and common areas, the specific work to be undertaken on each affected unit, an estimate of the total project cost and time, and an estimate of the cost and time of renovation for each affected unit.
4. Identification of the impact of the Substantial Repairs or Construction on the habitability of affected rental units, including a discussion of impact severity and duration with regard to noise, utility interruption, exposure to hazardous materials, interruption of fire safety systems, inaccessibility of all or portions of each affected rental unit, and disruption of other tenant services.

5. Identification of the mitigation measures that will be adopted to ensure that tenants are not required to occupy an untenable dwelling, as defined in California Civil Code Section 1941.1. Such measures may include the adoption of work procedures that allow a tenant to remain on-site and/or the temporary relocation of tenants. If due to a declared state of emergency, childcare, eldercare, documented disabilities or work schedule or place of work that makes 8:00 - 5:00 pm Monday through Friday a grave burden, then a reasonableness standard shall be used reflecting the tenant's specific situation.
6. Identification of the impact of the Substantial Repairs or Construction on the personal property affected tenants, including work areas which must be cleared of furnishings and other tenant property, and the exposure of tenant property to theft or damage from hazards related to work or storage.
7. Identification of the mitigation measures that will be adopted to secure and protect tenant property from reasonably foreseeable damage or loss.
8. Identification of a phone number and email address of a responsible party who will be responsive to tenant complaints regarding the execution of the Substantial Repairs.
9. If tenants are to remain in place, the landlord shall voluntarily reduce the tenants' rent to compensate the tenant for any disruption to their tenancy. If a tenant feels the landlord's rent reduction is inadequate, the tenant may file a petition with Berkeley's Rent Program under section 11.100.070(c) or pursue any other legal remedy.

1253.3 Plan Acceptance

- A. The [responsible agency] shall make a determination regarding the adequacy of a landlord's Tenant Habitability Plan within five working days of the [responsible agency]'s receipt of the plan for review. The [responsible agency] shall accept those plans which meet the requirements of section 1251.2 of this section and which it determines, with reference to the standards set forth in California Civil Code Section 1941.1, and in accordance with any applicable regulations or guidelines adopted under section 13.76.060(F)., will adequately mitigate the impacts of Substantial Repairs upon tenants. The Tenant Habitability Plan may allow for the temporary disruption of major systems during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. While brief periods of scheduled untenability between 8:00 and 5:00 am may be acceptable, a tenant's tenancy shall not be substantially disrupted for extended periods or in a manner that would be unreasonably disruptive to the tenant. In determining whether a disruption is reasonable, the [responsible agency] shall consider any relevant issue raised by the tenant, such as the tenant working from home, sleeping during the day, etc. At no point shall tenants

be exposed to toxic or hazardous materials including, but not limited to, lead-based paint and asbestos.

- B. The [responsible agency]'s acceptance of a Tenant Habitability Plan shall be subject to the landlord having no outstanding balances due for rent registration or code enforcement fees.
- C. The [responsible agency] shall provide landlords with written indications of deficiencies which must be addressed whenever a Tenant Habitability Plan is determined to be inadequate. A landlord may submit an amended plan in order to correct identified deficiencies.
- D. Landlords and tenants may appeal the [responsible agency]'s determination regarding a Tenant Habitability Plan to a hearing officer. The appeal shall be made in writing, upon appropriate forms provided by the [responsible agency], and shall specify the grounds for appeal, such as the plan being overly disruptive or that a temporary relocation should or should not be provided. The appeal shall be filed within 15 calendar days of the service of the Building Division's determination. The requested hearing shall be held within 30 calendar days of the filing of the appeal following the procedures adopted under. The hearing officer shall issue a written decision within ten calendar days of the hearing on the appeal, with a copy of the decision served on the landlord and the tenants by first class mail, postage prepaid, or in person.

1253.4 Notice of Substantial Repairs or Construction

- A. Notice of Substantial Repairs or Construction shall be written in the language in which the original lease was negotiated and shall provide the following information:
 - 1. The estimated start and completion dates of any Substantial Repairs associated with the accepted Tenant Habitability Plan.
 - 2. A description of the Substantial Repairs to be performed and how it will impact that particular tenant or household.
 - 3. Whether temporary relocation will be required, and if so, a notice concerning tenants' rights under Berkeley's Fair Rent, Just Cause For Eviction and Homeowner Protection Ordinance (section 13.100 et seq.) and Berkeley's Relocation Ordinance (section 11.102 et seq.)
 - 4. Instructions that tenants with questions should consult the landlord or the Rent Board.
 - 5. Notice of a tenant's right to reoccupy the units under the existing terms of tenancy upon completion of Notice of Substantial Repairs

6. Notice that the tenant may appeal the [responsible agency]’s acceptance of a Tenant Habitability Plan provided such request is submitted within 15 days of the tenant's receipt of the Notice of Substantial Repairs
7. Notice that a tenant can make complaints to the responsible party identified in section 1253.2 (A)(1).
8. A disclaimer in at least 24 point bold font on the first page of the notice stating “THIS IS NOT AN EVICTION NOTICE. IF YOU IF YOU HAVE QUESTIONS CONCERNING YOUR RIGHTS AS A TENANT CALL 510-981-_____.

1254 – Notice and Service Requirements

After the [responsible agency] accepts the Tenant Habitability Plan, a landlord shall serve a copy of the Tenant Habitability Plan, Notice of Substantial Repairs or Construction, and a summary of the provisions of this article on the tenant. Service of these items shall be provided in the manner prescribed by Section 1162 of the California Code of Civil Procedure and at least 60 days prior to the date on which the Substantial Repairs or Construction are scheduled to begin.

1255 - Notices of Violation

- A. Habitability Plan submittal requirement upon finding of substandard housing pursuant to 19.40.090
 1. Building Officials shall include in Notice of Violation pursuant to 19.40.1002 whether Habitability Plan must be submitted;
 2. Building Official shall require submittal of Habitability Plan anytime owner or agent of owner has failed to apply for permits or submit a Habitability Plan when it would have been required and all Construction or repairs shall be halted until compliance is obtained.

If such pause in construction leaves the rental unit substandard, temporary relocation may be triggered.

1256 - Remedies

- A. A landlord who fails to abide by the terms of an accepted Tenant Habitability Plan shall be denied individual rent adjustments under Section 13.76.120 of this Code, absent extenuating circumstances.
- B. In any action by a landlord to recover possession of a rental unit under section 13.76.130(A)(7), the tenant may raise as an affirmative defense the failure of the landlord to comply with any provisions contained in this article. It shall be a complete defense to an unlawful detainer that a tenant’s appeal under section 1253.3(D) is pending at the time

of filing the unlawful detainer complaint, or was decided less than fourteen days before the filing of the Unlawful Detainer unlawful detainer complaint.

- C. Any person who willfully or knowingly with the intent to deceive, makes a false statement or representation, or knowingly fails to disclose a material fact in any plan or notice required under this article, or in any declaration, application, hearing or appeal permitted under this article, including oral or written evidence presented in support thereof, shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this chapter shall be punished by a fine of not more than \$1,000.00 or by imprisonment in the County Jail for a period of not more than six months or both.
- D. Nothing in this article shall be construed to deprive a person of due process rights guaranteed by law, including, but not limited to, a right to appeal the [responsible agency]'s determination regarding a Tenant Habitability Plan to a hearing officer.
- E. The remedies provided by this article are in addition to any other legal or equitable remedies and are not intended to be exclusive. In addition to potentially other violations, a landlord's failure to provide, or bad faith deviation from a Tenant Habitability Plan shall be actionable as a failure to "exercise due diligence in completing repairs" pursuant to section 13.79.060(C)(7).



Rent Stabilization Board

March 25, 2022

To: Sharon Gong, Principal Planner, Planning & Development Department

From: Matt Brown, General Counsel

By: Lief Bursell, Senior Planner
Be Tran, Associate Planner

Subject: **2435 Haste Street**

On January 5, 2022, Nick Armour wrote to Mr. Bursell informing him of a new application to demolish an existing two-story residential building at 2435 Haste Street to construct a new 8-story residential building with 37 units. He requested that we provide you with information related to the property's rental history and status under the Rent Stabilization and Eviction for Good Cause Ordinance ("Ordinance").

Property History

Alameda County records show that Kenneth and Gregory Ent owned the property as of October 28, 1993. City of Berkeley records indicate that the building was constructed in 1969 as an apartment building with eight units, each with two-bedrooms. In 1992, the City issued a Notice and Order to property owner who was in violation of Zoning Ordinance by converting structure into 16 units without a Use Permit/Variance (for parking).

Rent Stabilization Board records and microfiche records indicate that 2435 Haste currently contains 16 units. Microfiche records contain a 1992 letter from the owner requesting eight additional addresses for the building. The owner included a sketch of the floor plans which shows two units share one kitchen and 16 entry doors.

Rental History and Rent Control Status

Rent Stabilization Board records reflect 16 units at 2435 Haste Street, all of which are claimed as "rented or available for rent." All 16 units are currently rented, under rent control, and fully subject to the Ordinance. Eight units have been registered with the Rent Stabilization Board since 1981 and another eight units have been registered since 1999. At least four households have resided in their units for 19 years or more.

Ellis Act

The building at 2435 Haste has not been removed from the rental market under the Ellis Act at any time during the preceding five (5) years.

Harassment or Illegal Eviction

The Rent Stabilization Board has no record of any verified cases of harassment or threatened or actual illegal evicting occurring at 2435 Haste.

BMC 23.326 and SB 330

Both Berkeley Municipal Code (BMC) Chapter 23.326 (formerly BMC 23C.08) and Housing Crisis Act of 2019 Senate Bill (SB) 330 apply to this project. Both regulations require certain tenant protections, such as the right of first refusal and relocation assistance. However, SB 330 does not supersede local ordinances with greater restrictions on the demolition of residential dwelling units or local ordinances that require greater relocation assistance to displaced households (Cal. Gov. Code 66300(d)(3)). For instance, tenant relocation protections in BMC 23.326 are greater than those provided by SB 330, but they only apply to sitting tenants at the time the application for demolition is submitted to the City. Tenants who move in after the application is submitted would qualify for the less protective relocation requirements in SB 330.

Under Berkeley's Demolition Ordinance, returning tenants have the right to rent the new replacement unit at the rent level that would have applied if they remained in their former unit. Landlords may petition the Board for a rent adjustment on the new unit pursuant to the rules associated with the addition of space/services.

Additional Information Requested

In order to complete our review of the proposed demolition, our office would like the following information:

- A floorplan of the property with the configuration of each 16 units.
- For each of the 16 households, provide each tenant's names, contact information, and income. If a unit is not currently rented, explain its current use and give date the last tenant vacated.
- A Relocation Plan explaining how each household will be supported during and after construction, how prospective tenants will be notified of the demolition application (and sample of the letter if applicable), and the process for implementing the tenants' rights of first refusal.
- An explanation on how the owner plans to handle the relocation of two independently rented rooms in a two-bedroom apartment; for instance, if only one tenant wants to move back, will that tenant be able to move into one room in the new two-bedroom unit?

After our office has received the above requested information, our staff are available to work with the Planning Department to draft Use Permit conditions related to tenant protections and relocation assistance for this project.

Please feel free to contact Mr. Bursell with any further questions regarding this matter.

Sincerely,



Matt Brown
General Counsel