



**RENT STABILIZATION BOARD  
Regular Meeting and Public Hearing  
Thursday, March 16, 2023  
7:00 p.m.**

**Berkeley Unified School District Board Room  
1231 Addison Street, Berkeley, CA 94702**

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION.**

For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

**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/87985893082?pwd=MC9pZ1ljNmJ0WGt3OHE4aHNncVdOZz09>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "Rename" to rename yourself to be anonymous. To request to speak, use the "Raise Hand" icon by rolling over the bottom of the screen.

**To join by phone:** Dial 1-408-638-0968 and enter Meeting ID: 879 8589 3082 and Passcode: 917780. 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 a written communication for the Board's consideration and inclusion in the public record, please email [amueller@cityofberkeley.info](mailto:amueller@cityofberkeley.info) with the Subject line in this format: "RENT BOARD MEETING PUBLIC COMMENT ITEM." Please observe a 150-word limit. **Email comments must be submitted to the email address above by 12:00 p.m. on the day of the meeting in order to be included.**

Please be mindful that this will be a public meeting and all rules of procedure and decorum apply for both in-person attendees and those participating 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 (981-RENT). The Rent Board may take action related to any subject listed on the Agenda.

**RENT STABILIZATION BOARD**  
**Regular Meeting and Public Hearing**  
**Thursday, March 16, 2023**  
**7:00 p.m.**  
**Berkeley Unified School District Board Room**  
**1231 Addison Street, Berkeley, CA 94702**

<b>AGENDA</b>
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\*Times allotted for each item are approximate and may be changed at the Board's discretion during the course of this meeting.

1. **Roll call** – 1 min.\*
  
2. **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 February 16<sup>th</sup> regular meeting minutes
  
  - b. Recommendation to adopt Resolution 23-04 authorizing the Executive Director to execute a contract modification with Goldfarb & Lipman LLP through June 30, 2023, in an amount not to exceed \$20,000 (General Counsel)
  
  - c. Recommendation to adopt Resolution 23-05 authorizing the Executive Director to execute a contract modification with Sloan Sakai Yeung & Wong LLP through

June 30, 2023, in an amount not to exceed \$80,000 (General Counsel)

- 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

18 THE UPLANDS  
2022 VIRGINIA ST  
2915 HARPER  
2124 PRINCE  
1032 CRAGMONT  
2614 WARRING  
2237 ROOSEVELT  
939 ADDISON  
2117-2119 ASHBY  
3014 COLLEGE  
1455 GRIZZLY

**Discretionary Waivers**

Waiver No.    Property Address

W5075	2716 DURANT
W5076	2443 SPAULDING
W5077	1300 DELAWARE
W5078	1951 CHESTNUT

**7. PUBLIC HEARING ON PROPOSED INCREASE TO THE ANNUAL REGISTRATION FEES FOR FISCAL YEAR (FY) 2023-2024**

- a. Staff presentation on the proposed increase to the FY 2023-2024 Annual Registration Fees
- b. Public Comment
- c. Comments from the Board

**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 23-06 setting the FY 2023-2024 annual registration fee for fully-covered units (due July 3, 2023) at \$290 per unit (Budget & Personnel Committee and Executive Director) – 20 min.\*
- c. Recommendation to adopt Resolution 23-07 setting the FY 2023-2024 annual registration fee for partially-covered Measure MM units (due July 3, 2023) at \$178 per unit (Budget & Personnel Committee and Executive Director) – 15 min.\*
- d. Recommendation to adopt Resolution 23-08 setting the FY 2023-2024 annual registration fee for partially-covered Measure MM units in affordable housing projects (due July 3, 2023) at \$37 per unit (Budget & Personnel Committee and Executive Director) – 15 min.\*
- e. Recommendation to adopt Resolution 23-09 setting the Summer Rental Period registration fee for fraternities and sororities for FY 2023-2024 (due July 3, 2023) at \$70 per unit (Budget & Personnel Committee and Executive Director) – 10 min.\*
- f. Discussion and possible action to send a letter of support for Senate Bill (SB) 460 (Wahab): Fair Chance Housing (Chair Simon-Weisberg & Commissioner Johnson) – 5 min.\*
- g. Discussion and possible action to send a letter of support for SB 466 (Wahab): Costa-Hawkins Rental Housing Act: rental rates (Commissioner Elgstrand, Chair Simon-Weisberg & Commissioner Kelley) – 10 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 Council's recent action on the City's Eviction Moratorium – *Verbal* (General Counsel) – 15 min.\*
- b. Update on limited post-emergency options for remote participation in Board and Committee meetings (General Counsel) – 15 min.\*
- c. Owner Move-in Eviction Tracking Report (January 2020 - December 2022) (Eviction/Section 8/Foreclosure Committee) – 3 min.\*
- d. Date to submit agenda topics/items for April's regular Rent Board meeting is **Monday, April 10<sup>th</sup> by 5:00 p.m.** (Board Secretary) – 1 min.\*

**10. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS**

- a. Budget and Personnel Committee (Commissioner Walker, Chair) – 5 min.\*  
Next regularly-scheduled meeting: Thursday, April 6<sup>th</sup> at 5:30 p.m.

February 22<sup>nd</sup> agenda

- b. Eviction/Section 8/Foreclosure Committee (Commissioner Elgstrand, Chair) – 5 min.\*  
Next regularly-scheduled meeting: Tuesday, April 11<sup>th</sup> at 6:00 p.m.

March 8<sup>th</sup> agenda

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

- d. Outreach Committee (Vice-Chair Alpert, Chair) – 5 min.\*  
Next regularly-scheduled meeting: Monday, April 10<sup>th</sup> at 5:30 p.m.

March 9<sup>th</sup> agenda

- e. 4 x 4 Joint Task Force Committee on Housing: City Council/Rent Board – 5 min.\*  
(Mayor Arreguín and Chair Simon-Weisberg, Co-Chairs)  
Next regularly-scheduled meeting: TBA

- f. Ad Hoc Committee on Environmental Sustainability (Chair TBA) – 3 min.\*  
Next meeting date: TBA

- g. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District  
(Chair TBA) – 1 min.\*  
Regularly-scheduled meeting date: TBA

- h. Updates and Announcements – 3 min.\*

- i. Discussion of items for possible placement on future agenda – 5 min.\*

## 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.



**RENT STABILIZATION BOARD**  
**Regular Meeting**  
**Thursday, February 16, 2023**  
**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/84493074093?pwd=czBIeVhaekhOcllwZHo2cThBdGRGZz09>. 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.

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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.

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**RENT STABILIZATION BOARD**  
**Regular Meeting**  
**Thursday, February 16, 2023**  
**7:00 p.m.**

**Minutes - *Unapproved***

1. **Roll call** – Chair Simon-Weisberg called the meeting to order at 7:02 p.m.  
Commissioners present: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac, Mizell, Walker, Simon-Weisberg  
Commissioners absent: None  
Staff present: Brown, Eberhart, Ehlinger, 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 (Johnson/Walker) APPROVE THE AGENDA WITH THE FOLLOWING CHANGES: ADJOURN TONIGHT’S MEETING IN HONOR OF COUNTY SUPERVISOR VALLE, AND IN RECOGNITION OF FORMER RENT BOARD COMMISSIONER PAOLA LAVERDE FOR HER SUPPORT AND INSPIRATION.

Roll call vote. YES: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac, Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None.

Carried: 9-0-0-0.

4. **Public Comment** – *non*-agendized items. There was one speaker. Zak Bos spoke about the eviction moratorium and its impacts on his mother’s property.
  
5. **Public Comment** – items on the agenda. There were four speakers. Noah Levy spoke about his discretionary waiver request that the Board will consider tonight. Paola Laverde



spoke about the Board's honoring of Byron Rumford and his extraordinary contributions to fair housing. Carlotta Brown spoke about the resolution honoring Byron Rumford, and thanked Commissioners Marrero and Mizell for putting it forward. Zak Bos spoke about Item 9.b.

## 6. SPECIAL ORDER OF BUSINESS

- a. Recommendation to adopt Resolution 23-02 In Honor and Recognition of Assembly Member William Byron Rumford for His Extraordinary Service and Leadership for Racial Justice for Tenants of Berkeley and Beyond, in Commemoration of Black History Month (Commissioner Mizell, Commissioner Marrero & Chair Simon-Weisberg) – Following an introduction by Commissioners Mizell and Marrero, Chair Simon-Weisberg read aloud Resolution 23-02 in honor and recognition of Byron Rumford.

M/S/C (Marrero/Mizell) ADOPT RESOLUTION 23-02 AS WRITTEN. Roll call vote. YES: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac, Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.

- b. Recommendation that the Board send a letter of support for the City of Berkeley's Proclamation to Honor William Byron Rumford on the 60<sup>th</sup> Anniversary of the Rumford Fair Housing Act of 1963 – Verbal (Commissioner Marrero & Chair Simon-Weisberg)

M/S/C (Alpert/Kelley) AUTHORIZE THE BOARD CHAIR AND VICE-CHAIR TO SEND A LETTER SUPPORTING THE CITY'S PROCLAMATION IN HONOR OF BYRON RUMFORD ON THE 60<sup>th</sup> ANNIVERSARY OF THE RUMFORD FAIR HOUSING ACT OF 1963. Roll call vote. YES: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac, Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.

## 7. CONSENT ITEMS

- a. Approval of the January 19, 2023 regular meeting minutes
- b. Discussion and possible action to adopt Resolution 23-03 to allow the Board to continue to meet exclusively by teleconference throughout the remainder of the state of emergency associated with the COVID-19 pandemic (General Counsel)
- c. Proposal to approve staff recommendations on the following requests for waivers of late registration penalties (Executive Director/Registration Unit Manager)

### **Ministerial Waivers**

Property Address

2624 REGENT  
1278 DELAWARE  
1464 BANCROFT  
921 REGAL RD  
2020 PRINCE  
2223 BONAR  
940 FRESNO  
1645 CORNELL  
1235 CARRISON  
1923-1929 CURTIS  
2624 REGENT

**Discretionary Waivers**

<u>Waiver No.</u>	<u>Property Address</u>
W5071	2133 RUSSELL ST
W5072	1334 ORDWAY
W5074	1104/1106 EUCLID

M/S/C (Johnson/Elgstrand) APPROVE ALL CONSENT ITEMS AS WRITTEN.  
Roll call vote. YES: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac,  
Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None.  
Carried: 9-0-0-0.

**8. APPEAL – Case No. T-5991 (2705 Ridge Road, #14)**

Appearances:  
Michael Partow, Appellant  
Vivek Nair, Respondent

M/S/C (Johnson/Alpert) APPROVE THE HEARING EXAMINER’S DECISION. Roll  
call vote. YES: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac, Mizell, Walker,  
Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.

**9. 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 – No speakers.**

a. Chair Update (Chair Simon-Weisberg)

- (1) Discussion and possible action regarding the California Department of  
Housing and Community Development’s formal comments on the City of  
Berkeley’s Revised Draft Housing Element

- (2) February 1, 2023 *Berkeleyside* article by Nico Savidge titled, “The state rejected Berkeley’s housing plans. What happens next?”  
<https://www.berkeleyside.org/2023/02/01/berkeley-housing-element-builders-remedy-hcd>
- b. Discussion and possible action to deliver official communication to Council recommending that it extend the Eviction Moratorium (BMC Chapter 13.110) beyond the expiration of the state of emergency (LIRA Committee)

Chair Simon-Weisberg provided verbal updates and the Board discussed items 9.a.(1), 9.a.(2) and 9.b. No action was taken.

## **10. INFORMATION, ANNOUNCEMENTS AND ARTICLES/MEDIA**

*from Board Members, Committees, Executive Director or Staff*

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

- a. Update on providing mediation services and technical assistance to the Town of Fairfax – *Verbal* (Executive Director)
- b. Copy of January 26, 2023 letter to Chief Investment Officer Jagdeep Singh Bachher regarding the Board’s vote to demand that the University of California Regents divest from the Blackstone Real Estate Income Trust (Chair Simon-Weisberg)
- c. Copy of January 20, 2023 letter to Assembly Member Haney conveying the Board’s support for AB 12 (Chair Simon-Weisberg)
- d. Date to submit agenda topics/items for March’s regular Rent Board meeting is **Monday, March 5<sup>th</sup> by 5:00 p.m.** (Board Secretary) – The Board Secretary clarified that the correct date to submit agenda items is March 6<sup>th</sup>.

## **11. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS**

- a. Budget and Personnel Committee (Chair TBA) – Committee Chair Walker reviewed the items discussed at the February 9<sup>th</sup> meeting and announced the next meeting date of February 22 at 3:30 p.m.  
Next regularly-scheduled meeting: Thursday, Feb. 9<sup>th</sup> at 5:30 p.m.

February 9<sup>th</sup> agenda

- b. Eviction/Section 8/Foreclosure Committee (Chair TBA)  
Next regularly-scheduled meeting: TBA

- c. Legislation, IRA/AGA & Registration Committee (LIRA Committee) (Commissioner Kelley, Chair) – Committee Chair Kelley reported that the Committee discussed its workplan at the last meeting.  
Next regularly-scheduled meeting: Monday, Mar. 6<sup>th</sup> at 5:30 p.m.

February 6<sup>th</sup> agenda

- d. Outreach Committee (Chair TBA) – Committee Chair Alpert reported that the Committee discussed the tenant survey at their last meeting.  
Next regularly-scheduled meeting: Wednesday, Feb. 15<sup>th</sup> at 5:30 p.m.

January 31<sup>st</sup> agenda

February 15<sup>th</sup> agenda

- e. 4 x 4 Joint Task Force Committee on Housing: City Council/Rent Board – Chair Simon-Weisberg provided an update on the Committee’s last meeting. (Mayor Arreguín and Chair Simon-Weisberg, Co-Chairs)  
Next regularly-scheduled meeting: Wednesday, Feb. 15<sup>th</sup> at 3:00 p.m.

February 1<sup>st</sup> agenda packet (revised)

February 15<sup>th</sup> agenda packet

- f. Ad Hoc Committee on Environmental Sustainability (Chair TBA)  
Next meeting date: TBA
- g. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District (Chair TBA)  
Regularly-scheduled meeting date: TBA
- h. Updates and Announcements – Commissioner Marrero announced the Listos California Target Grant Program request for proposals by the Governor’s Office of Emergency Services. The application deadline is March 20, 2023 for community-based organizations that do disaster-related work. Chair Simon-Weisberg and Executive Director Williams announced the Rent Board’s virtual screening of the film, “Fair Legislation – The Byron Rumford Story” on Wednesday, February 22 at 1:00 p.m.
- i. Discussion of items for possible placement on future agenda

**12. CLOSED SESSION** – Pursuant to California Government Code Section 54956.9(a), the Board convened in closed session for an update on litigation:

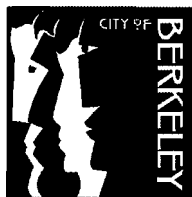
*Andrew Marowitz v. Berkeley Rent Stabilization Board* (Alameda County Superior Court Case # RG19042977)

*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


Upon return from closed session, the Chair announced that no reportable action was taken.

13. **ADJOURNMENT** – M/S/C (Alpert/Johnson) ADJOURN TONIGHT’S MEETING IN HONOR OF COUNTY SUPERVISOR VALLE, AND IN RECOGNITION OF FORMER RENT BOARD COMMISSIONER PAOLA LAVERDE FOR HER SUPPORT AND INSPIRATION. Roll call vote. YES: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac, Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.

The meeting adjourned at 9:33 p.m.



**Rent Stabilization Board  
Legal Unit**

DATE: March 16, 2023  
 TO: Honorable Members of the Rent Stabilization Board  
 FROM: Matt Brown, General Counsel   
 SUBJECT: Recommendation to adopt Resolution 23-04 authorizing the Executive Director to modify the existing contract with Goldfarb Lipman, LLP to add \$20,000 for the current fiscal year.

**Recommendation**

That the Board adopt Resolution 23-04 authorizing the Executive Director to execute a contract modification with Goldfarb Lipman, LLP in an additional amount not to exceed \$20,000 (bringing the contract total to \$50,000).

**Background and Need for Rent Stabilization Board Action**

The Rent Stabilization Board previously authorized the Executive director to execute a contract with Goldfarb Lipman, LLP to provide litigation support for an administrative writ of mandate and to draft an amicus brief for a case that has direct impact on Berkeley's tenant community in a total amount not to exceed \$30,000.<sup>1</sup> Goldfarb Lipman, LLP has provided the agency with invaluable support during a time of great transition which has included significant staff turnover.

Throughout the duration of this contract Goldfarb Lipman, LLP has assisted with litigation support given that the departure and extended absence of several staff attorneys has left the legal unit particularly short-staffed. We anticipate that we will need at least another \$20,000 worth of work from Goldfarb Lipman, LLP for the current fiscal year.<sup>2</sup>

**Financial Impact**

The Board has sufficient funds in its FY 2022/23 uncommitted reserve to allocate an additional \$20,000 for a contract modification with Goldfarb Lipman, LLP.

**Name and Telephone Number of Contact Person**

Matt Brown, General Counsel (510) 981-4930

<sup>1</sup> The Board made clear that the Executive Director should use her independent spending authority of \$30,000 (authorized by Resolution 19-26 adopted December 19, 2019) to execute the contract with Goldfarb Lipman, LLP.

<sup>2</sup> During the adoption of past Fiscal Year budgets the Board has expressed support for staff seeking assistance from outside counsel, so that the Board's interests may be fully protected.

**RESOLUTION 23-04**

**AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT  
MODIFICATION WITH GOLDFARB & LIPMAN, LLP THROUGH JUNE 30, 2023, IN  
AN AMOUNT NOT TO EXCEED \$20,000**

**BE IT RESOLVED** by the Rent Stabilization Board of the City of Berkeley (the “Board”) as follows:

**WHEREAS**, the Board authorized the executive director to execute a contract with Goldfarb & Lipman, LLP in the amount of \$30,000 to provide litigation support regarding an administrative writ of mandate and an amicus brief in a case that had a direct impact on protections offered to Berkeley’s tenant community; and

**WHEREAS**, the contract was executed with Goldfarb & Lipman, LLP for a term beginning August 1, 2022, and ending June 30, 2023; and

**WHEREAS**, Goldfarb & Lipman, LLP has informed Board staff that they will require more funds to complete the contracted task associated with litigation support in the administrative writ of mandate; and

**WHEREAS**, the Board’s legal unit has been short-staffed for some time during the last three years; and

**WHEREAS**, the Board has expressed support for the executive director to allocate funds to outside counsel during this time when staff capacity does not meet the demand for litigation support; and

**WHEREAS**, the Board’s legal staff have continued to work successfully with the lawyers at Goldfarb & Lipman, LLP; and

**WHEREAS**, Goldfarb & Lipman, LLP have particular expertise in litigating matters related to writs of mandates and other private claims against government agencies.

**RESOLUTION 23-04**

**AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT  
MODIFICATION WITH GOLDFARB & LIPMAN, LLP THROUGH JUNE 30, 2023, IN  
AN AMOUNT NOT TO EXCEED \$20,000 (Page 2)**

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Berkeley Rent Stabilization Board hereby authorizes the executive director to execute a contract modification with Goldfarb & Lipman, LLP through June 30, 2023, in an amount not to exceed \$20,000 (total contract amount not to exceed \$50,000); and

**BE IT FURTHER RESOLVED** that the Board will reconsider these matters should more funds be necessary to provide further assistance with matters related to litigation.

Dated: March 16, 2023

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

YES:

NO:

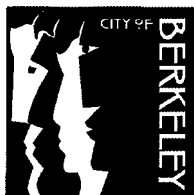
ABSTAIN:

ABSENT:

\_\_\_\_\_  
Leah Simon-Weisberg, Chairperson  
Rent Stabilization Board

Attest: \_\_\_\_\_  
DeSeana Williams, Executive Director  
Rent Stabilization Board





**Rent Stabilization Board  
Legal Unit**

DATE: March 16, 2023  
 TO: Honorable Members of the Rent Stabilization Board  
 FROM: Matt Brown, General Counsel *(MB)*  
 SUBJECT: Recommendation to adopt Resolution 23-05 authorizing the Executive Director to modify the existing contract with Sloan Sakai Yeung & Wong to add \$80,000 for the current fiscal year.

**Recommendation**

That the Board adopt Resolution 23-05 authorizing the Executive Director to execute a contract modification with Sloan Sakai Yeung & Wong in an additional amount not to exceed \$80,000 (bringing the contract total to \$180,000).

**Background and Need for Rent Stabilization Board Action**

The Rent Stabilization Board previously authorized a contract extension with Sloan Sakai Yeung & Wong (Sloan Sakai) to advise the Board on various confidential personnel matters and for litigation support for a total amount not to exceed \$100,000.<sup>1</sup> Sloan Sakai has provided the agency with invaluable support during a time of great transition which has included significant staff turnover.

For several years, Sloan Sakai has assisted with litigation support given that the departure and extended absence of several staff attorneys has left the legal unit particularly short-staffed. We anticipate that we will need at least another \$80,000 worth of work from Sloan Sakai for the current fiscal year.<sup>2</sup>

**Financial Impact**

The Board has sufficient funds in its FY 2022/23 uncommitted reserve to allocate an additional \$80,000 for a contract modification with Sloan Sakai Yeung & Wong.

**Name and Telephone Number of Contact Person**

Matt Brown, General Counsel (510) 981-4930

<sup>1</sup> The Board authorized these amounts in Resolution 20-02 (adopted on February 27, 2020), Resolution 20-13 (adopted on June 18, 2020), and Resolution 22-01 (adopted on January 20, 2022).

<sup>2</sup> During the adoption of past Fiscal Year budgets the Board has expressed support for staff seeking assistance from outside counsel, so that the Board's interests may be fully protected.

**RESOLUTION 23-05**

**AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT  
MODIFICATION WITH SLOAN SAKAI YEUNG & WONG THROUGH JUNE 30, 2023,  
IN AN AMOUNT NOT TO EXCEED \$80,000**

**BE IT RESOLVED** by the Rent Stabilization Board of the City of Berkeley (the “Board”) as follows:

**WHEREAS**, on February 27, 2020, and June 18, 2020, the Board met in closed session and was apprised of the need to continue ongoing confidential personnel investigations being conducted by an outside investigator concerning Board employees and the need to provide litigation support regarding various matters; and

**WHEREAS**, the Board allocated funds to the law firm of Sloan Sakai Yeung & Wong when it adopted Resolutions 20-02 (February 27, 2020) and 20-13 (June 18, 2020) to assist with these matters; and

**WHEREAS**, the Board authorized a further \$50,000 to Sloan Sakai Yeung & Wong for litigation support when it adopted Resolution 22-01 (January 20, 2022); and

**WHEREAS**, the Board’s legal unit has been short-staffed for some time during the last three years; and

**WHEREAS**, the Board has expressed support for the executive director to allocate funds to outside counsel during this time when staff capacity does not meet the demand for litigation support; and

**WHEREAS**, the Board’s legal staff have continued to work successfully with the lawyers at Sloan Sakai Yeung & Wong; and

**WHEREAS**, Sloan Sakai Yeung & Wong have particular expertise in litigating matters related to writs of mandates and other private claims against government agencies.

**RESOLUTION 23-05**

**AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT MODIFICATION WITH SLOAN SAKAI YEUNG & WONG THROUGH JUNE 30, 2023, IN AN AMOUNT NOT TO EXCEED \$80,000 (Page 2)**

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Berkeley Rent Stabilization Board hereby authorizes the executive director to execute a contract modification with Sloan Sakai Yeung & Wong through June 30, 2023, in an amount not to exceed \$80,000 (total contract amount not to exceed \$180,000); and

**BE IT FURTHER RESOLVED** that the Board will reconsider these matters should more funds be necessary to provide further assistance with matters related to litigation; and

**BE IT FURTHER RESOLVED** that this Resolution shall amend and supersede Resolution 22-01 to the extent there are any conflicting terms.

Dated: March 16, 2023

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

YES:

NO:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Leah Simon-Weisberg, Chairperson  
Rent Stabilization Board

Attest: \_\_\_\_\_  
DeSeana Williams, Executive Director  
Rent Stabilization Board



Rent Stabilization Board

## RENT STABILIZATION BOARD

DATE: March 16, 2023

TO: Honorable Members of the Rent Stabilization Board

FROM: DéSeana Williams, Executive Director

BY: Amanda Eberhart, Registration Unit Manager

SUBJECT: Request for waiver of late registration penalties

### **Recommendation:**

That the Board approves 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. Please see the attached Ministerial Waiver Analysis and Recommendation for additional details.

Waiver	Property Address	Owner	Penalty Assessed	Penalty Waived	Penalty Imposed
	18 THE UPLANDS	JOHN HUNSAKER	600.00	600.00	
	2022 VIRGINIA ST	KEITH LEE & ELAINE LOU	1,750.00	1,750.00	
	2915 HARPER	TRUCKEE ZURICH PLACE LLC	132.00		132.00
	2124 PRINCE	ELLEN TRIMBERGER	250.00	137.50	112.50
	1032 CRAGMONT	VICTORIA & KARL LEIST	150.00	150.00	
	2614 WARRING	GITI BALOOCH	600.00	600.00	
	2237 ROOSEVELT	GIORA BEERI	1,000.00	800.00	200.00
	939 ADDISON	YASUKO IWAO	418.00	418.00	
	2117-2119 ASHBY	CHERUBA PRABAKAR & SANJAY JEYAKUMAR	1,000.00	800.00	200.00
	3014 COLLEGE	BENJAMIN LARRALDE	250.00	250.00	
	1455 GRIZZLY	STEVE SHAO	120.00	108.00	12.00
<b>TOTAL</b>			<b>6,270.00</b>	<b>5,613.50</b>	<b>656.50</b>

**Financial Impact: Ministerial Waivers**

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$5,613.50**.

**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
W5075	2716 DURANT	MARK ETTEFAGH FAMILY TRUST	630.00	315.00	315.00
W5076	2443 SPAULDING	DEBORAH GARMON	600.00	600.00	
W5077	1300 DELAWARE	1300 DELAWARE/ TESSERACT CAPITAL	1,500.00	1,500.00	
W5078	1951 CHESTNUT	RUEGG & ELLSWORTH LLC	9,000.00	9,000.00	
<b>TOTAL</b>			11,730.00	11,415.00	315.00

**Financial Impact: Discretionary Waivers**

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$11,415.00**.

**Name and Telephone Number of Contact Person:**

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

Address	Details
18 THE UPLANDS	The Property located at <u>18 The Uplands</u> is a single-family home partially covered under Measure MM. The property has been owned by the current owners since 2018. The property owner states in their waiver that, “they were unaware of the passing of Measure MM”. A search of Rent Board Records will show the previous Registration Unit Manager had this property listed as a “no bill measure mm property”. Unfortunately, this property received no communication regarding Measure MM. Per Regulation 883 A-G, this property qualifies to have 100% of their penalties waived. Staff Recommends waiving 100% of the penalties.
2022 VIRGINIA ST	The property located at 2022 Virginia Street is a multi- residential property consisting of eight units. In the last five fiscal years the property owner has not made any late payments. A search of rent board records will show that the property owner made a payment July 7, 2022; staff processed that payment and closed registration the same day. Unfortunately, our new Rent Registry platform did not automatically recognize this payment fell within the Administrative Waiver period and charged the property an additional penalty. Per regulation 883 H, this property qualifies to have 100% of the penalty waived. Staff recommends waiving 100% of the penalty.
2915 HARPER	The multi-residential property located at <u>2915 Harper St</u> has been owned by the current owner since <u>March 2020</u> . In the last five fiscal years, the current owner has not made any late payments. Both the 20/21 and the 21/22 registration fees were paid on time. Prior to that, the property was owned by a different owner. In the waiver request submitted by the owner, the property owner is asking the rent board to waive their fees, “as they did not receive paperwork from BHA to complete registration”. The owners also state, “this was their first experience completing this form and they were unaware of registering the property”. Unfortunately, the statement provided by the property owner does not actually represent why penalties were charged to the account. Prior to the 22/23 registration cycle this property only had four units. In January of 2023 the rent board received a tenancy registration form to add an ADU to the property. The tenancy registration form noted that the move-in date for this unit was August 1st 2022. The Rent board ordinance requires Property Owners to update the rent board within 60 days of any change in status to the unit; which includes changes in tenancies. The property owner was charged prorated fees and penalties for the addition of the ADU that was not timely registered. Staff notes that the property owner has already paid the prorated fees and penalties associated with the unit. Staff recommends denying the penalty waiver.
2124 PRINCE	The <u>3 unit 2, 3 or 4 single family home</u> located at <u>2124 &amp; 2124 ½ Prince St</u> has been owned by the current owner since <u>1985</u> . In the last five fiscal years the property owner has made 4 late payments in the 18/19, 20/21, 21/22 and the 22/23 registration cycles. The property owner states in their waiver that, “they paid the registration fee 12 days late”. The owner claims they were unable to pay the registration fee because they were in a lot of pain from a fall. The property owner did not submit any additional documentation that supported this claim. Rent Board records will show the property owner made a payment before the end of the Administrative waiver period. Per regulation 883 (H), This property qualifies to have 55% of the penalties waived. Staff recommends waiving 55% of the penalties.
1032 CRAGMONT	The single-family home located at <u>1032 Cragmont</u> has been owned by the current owner since <u>1998</u> . Prior to the passing of Measure MM, this property was exempt from the Registration Requirement. The owner states in their waiver that, “the first notice received was in December 2022 and would like their penalties waived after making a payment within four days of being made aware of the registration fee”. This statement contradicts Rent Board records. A search of Rent Board records will show this property owner paid the 21/22 Measure MM Registration fee before the July 1st deadline. In light of these records, and in accordance with Rent Board regulation 884 C, this property qualifies to have 100% of their penalties waived for the first late payment in five fiscal years. Staff recommends waiving 100% of the penalties per the ordinance.

2614 WARRING	The Property located at <u>2614 Warring</u> is a single-family home partially covered under Measure MM. The property has been owned by the current owners since <u>2020</u> . The property owner states in their waiver that, “there was some confusion in who was paying the registration fees for this property after a trust was created for the deceased owner's son”. A search of Rent Board Records will show the previous Registration Unit Manager had this property listed as a “no bill measure mm property”. Unfortunately, this property received no communication regarding Measure MM. The first time the property registered was in November 2022. Per Regulation 883 A, this property qualifies to have 100% of their penalties waived. Staff Recommends waiving 100% of the penalties.
2237 ROOSEVELT	2237 Roosevelt has been owned by the current owner since <u>1993</u> . In the last five fiscal years, this property owner has only made one late payment in the 20/21 registration cycle. The owner states in their waiver that, “they tried to pay the registration fee online and it did not go through”. Per Regulation 884 C, this property qualifies to have 80% of the penalty waived. Staff recommends 80% of the penalty be waived.
939 ADDISON	The single-family home located at <u>939 Addison</u> has been owned by the current owner since <u>1991</u> . Prior to the passing of Measure MM, this property was exempt from the Registration Requirement under Costa Hawkins. The owner states in their waiver that, “they were unaware if their property was considered a duplex since they live in the basement with a low ceiling”. A search of Rent Board records will show this property was added to the Rent Registry Platform in December 2022. Unfortunately, this owner would not have been sent a 22/23 Registration Statement in May 2022. Rent Board regulation 883 D, this property qualifies to have 100% of their penalties waived. Staff recommends waving 100% of the penalties per the ordinance.
2117-2119 Ashby	The Property located at <u>2117-2119 Ashby</u> is a single-family home fully covered under the rent Ordinance. In the last five fiscal years this property has been owned by two different owners. The prior owner paid the fiscal year 17/18 and 18/19 registration cycles late. The current owner has paid the 19/20 and 22/23 registration cycle payments late. The owner states in their waiver that, “In January 2022 they moved from Berkeley to Oakland and set up mail forwarding for their property. Unfortunately not all of their mail was forwarded in a timely manner”. The owner also states that, “While picking up Christmas cards from their prior address, they found the registration statements that had been mailed”. The property owner is requesting that the penalties be waived. The registration requirement of the ordinance requires all property owners to update their records with the rent board. A search of rent board records will show that this owner did not update their address with the rent board. Our records will also show that since the 19/20 registration cycle, the property owner has sent the Rent Board checks to pay their registration fees or has made online payments through the rent registry portal. In the waiver signed under penalty of perjury by the owner, there was no mention of issues with other payment options offered by the Rent Board. Under regulation 884 C, this property qualifies to have 80% of their penalties removed for the second late payment on the account. Per Rent Board Ordinance 884 C, staff recommends waiving 80% of the penalties.
3014 College	The four-plex located at 3014 College has been owned by the current owner since <u>2019</u> . In the last five fiscal years, this property owner has not made any late registration payments. The owner states in their waiver that, “they have had issues with the mail and did not receive the statement”. Per Regulation 884 C, this property qualifies to have 100% of the penalty waived. Staff recommends 100% of the penalty be waived.



1455 Grizzly	The Property located at <u>1455 Grizzly</u> is a single-family home partially covered under Measure MM. The only statement the owner makes in their waiver is that, “They are new owners and this is their first time renting out property in Berkeley”. Unfortunately, the owner did not provide any additional documentation or provide a reason as to why the property was out of compliance with the registration requirement. Under regulation 883 I, this property qualifies to have 90% of their penalties removed for failure to register the property within two years of ownership. Per Rent Board Ordinance 883 I, staff recommends waiving 90% of the penalties.
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**City Of Berkeley  
Rent Stabilization Board**

**Recommendation on Requested Waiver of Registration Penalties**

<b>Waiver No:</b> W5075	<b>Property address:</b> 2718 DURANT AVE	<b>Transferred:</b> 06/21/2018
<b>Exempt units (as of February 2021):</b> Unit # UNIT A - RENTED - Owner		
<b>Owner(s):</b> MARK ETTEFAGH FAMILY	<b>Waiver filed by:</b> OWNER	<b># of Units:</b> 2
<b>Other Berkeley rental property owned:</b> None		

**Late payment/penalty history:** In the last five fiscal years no late payments were received. This property was not subject to the Rent Registration Requirement as both units on the property were exempt.

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

**Penalties Currently Under Consideration**

**Reason for Penalties:** Death of an Aunt

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2022-23	4	\$630.00	01/13/2023	\$630.00	\$0.00	\$630.00
<b>Totals</b>				<b>\$630.00</b>	<b>\$0.00</b>	<b>\$630.00</b>

**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 left to Iran to attend his aunt's funeral and unfortunately was stuck in Iran due to the political climate.

**Recommendation:** Staff recommends waiving 50% of the penalties

**Staff Analysis:** The 3 unit 2, 3 or 4 single family home located at 2716 and 2718 Durant Ave has been owned by the current owner since 2018. In the last five fiscal years no late payments were received. This property was not subject to the Rent Registration Requirement as both units on the property were exempt. A search of rent board records will show that in January 2023, the property owner notified the Rent Board that the units on the property were being rented. Rent Board records will show that the tenancy start date for all three units was August 15, 2022. The property owner was charged \$630 in prorated fees and penalties for failing to register the new tenancies within 60 days of the change in status on the property. The property

owner is asking the Board to waive their fees because, "in September 2022, the property owner went to Iran to attend a funeral and was unfortunately stuck in Iran due to the political climate." The owner also states in their waiver request that the "process for the rental slipped their mind". The Rent Board offers a variety of ways for property owners to submit payments and Vacancy Registration forms through the Rent Registry Portal, property owners have the option of mailing in documents. They can also email them directly to the Rent Registry email address or they can drop off documents for processing in our drop box located outside of our office. It is unclear to the Registration Manager why none of the avenues available to submit the required documentation to reduce penalties were taken advantage of.

BERKELEY RENT BOARD  
RCVD '23 JAN 12 PM 11:37

W5078

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: 2716 A and B (2718) A and B Durant Berkeley, Ca 94704

Owner: Ettefagh properties partnership LP

Date of acquisition, if new owner: July 2018

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 attachment

Dear Board,

I like to ask you to waive my late registration kindly due to reasons that were beyond my control:

I left for Iran on september 5th 2022 because of my eldest aunts death. As the first son of family, I had to attend the funeral rites and take care of her inheritance duties.

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

Date: Jan 10 2023 Signature: M Ettefagh

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: markettetfagh@gmail.com

Mailing Address: 6363 Christie Ave Apt 2817

Phone Number: 510 710 71 80 Fax Number: \_\_\_\_\_

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

Unfortunately, as everyone is aware, Iran's political turmoil with the women's movement, which soon proved to be a people's movement began very soon after my arrival in Tehran. The country was shutdown and I was not able to leave until late December 2022. I have lost months of work because of the political situation that caused me extensive delay as I could not get back to the U.S. to finish my work in a timely manner.

This rental property is my first in Berkeley, I have to admit I am new to the bylaws of Berkeley. Furthermore being caught in a family tragedy and then stuck for months in Iran had a toll on me as I witnessed young people being persecuted and some being executed!

This process for rental slipped my mind as I was coping with the difficult environment in Iran.

Finally, once I settled in Berkeley I began my work with the rental process accordingly.

I appreciate your time and ask you to please waive my case and the fees.

Best Regards

M Eftefagh

Mark Eftefagh

Jan 10 2023

**City Of Berkeley  
Rent Stabilization Board**

**Recommendation on Requested Waiver of Registration Penalties**

<b>Waiver No:</b> W5076	<b>Property address:</b> 2443 SPAULDING AVE	<b>Transferred:</b> 02/14/1968
<b>Exempt units (as of February 2021):</b> None		
<b>Owner(s):</b> DEBORAH GARMON	<b>Waiver filed by:</b> OWNER	<b># of Units:</b> 1
<b>Other Berkeley rental property owned:</b> None		

**Late payment/penalty history:** This is a Measure MM Property. There are not five years of 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
FY2021-22	ALL	\$0.00	-	\$0.00	\$0.00	\$0.00
<b>Totals (penalties previously assessed)</b>				<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

**Penalties Currently Under Consideration**

**Reason for Penalties:** Justice

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	-	-	\$300.00	-	\$300.00
FY 21/22	0	-	-	\$300.00	-	\$300.00
<b>Totals</b>				<b>\$600.00</b>	<b>\$0.00</b>	<b>\$600.00</b>

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

**Good cause claimed by owner:** The owner has been involved in an ongoing elder abuse case.

**Recommendation:** Staff recommends waiving 100% of the penalty fee.

**Staff Analysis:** The single family home located at 2443 Spaulding Ave has been owned by the current owner since 1968. Unfortunately, this owner is living between two locations due to an ongoing elder abuse case and missed the due date for the 22/23 registration cycle. The owner is asking the board to waive the penalties. Per regulation 884 (11), staff recommends waiving the penalties in the interest of justice.

\$ 600 Penalties

-300 CY  
-300 PY

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

**RECEIVED**

NOV 14 2022

Initial: W5070 Ag  
Berkeley Rent Board

**Request for Waiver of Late Registration Penalties**

*Please Read Important Information on Page 2*

Property Address: 2443 Spaulding Ave SFH

Owner: Deborah Garmon

Date of acquisition, if new owner: 2/14/1968

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 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 am living between two addresses because of an elderly abuse case. I also thought another amount I paid the city was all I owed.

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

Date: 11/5/2022 Signature: Deborah Garmon

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: msquad1221@gmail.com

Mailing Address: 3126 Beavert Ave Stockton CA 95209

Phone Number: 209 808 3518 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**

<b>Waiver No:</b> W5077	<b>Property address:</b> 1300 DELAWARE ST	<b>Transferred:</b> 07/31/2019
<b>Exempt units (as of February 2021):</b> Unit # 12 - MGTU - Rent Subsidized Tenant, Unit # 45 - MISC - Manager		
<b>Owner(s):</b> 1300 DELAWARE/ TESSERACT	<b>Waiver filed by:</b> PROPERTY MANAGER	<b># of Units:</b> 43
<b>Other Berkeley rental property owned:</b> None		

**Late payment/penalty history:** This property was previously exempt. Unfortunately, there was not five fiscal years of data to review. In the last two fiscal years the 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
-	-	-	-	-	-	-
<b>Totals (penalties previously assessed)</b>				<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

**Penalties Currently Under Consideration**

<b>Reason for Penalties:</b> Justice						
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	-	-	\$1,500.00	-	\$1,500.00
<b>Totals</b>				<b>\$1,500.00</b>	<b>\$0.00</b>	<b>\$1,500.00</b>

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

**Good cause claimed by owner:** COVID Hardship and staff delays

**Recommendation:** Staff recommends waiving 100% of the penalty fee.

**Staff Analysis:** The multi-residential property located at 1300 Delaware has been owned by the current owner since July 2019. Unfortunately, due to the owners timing of the purchase they would have most likely missed the notifications regarding registering the property during the 20/21 Registration cycles. Prior to the current owners, this property previously had a GTU exemption that did not require the property to register their 43 units. The new owners worked with the Rent Board to bring the account current; they submitted new VRs for each tenancy and paid the registration fees. Unfortunately, due to the previous exemptions, the Rent Registry platform calculated prorated fees and penalties on the account as if the property never registered



with the Rent Board since 1980. Staff applied the statute of limitation to the property to bring the penalties owed down as well. Historical Rent Board records will show the current owners submitted a prior waiver that was approved by the Board. Unfortunately, it is unclear at this time if those penalties were removed by the previous Registration Unit Manager. The property owners are asking the Rent Board to forgive the remaining penalties associated with the property exemption. Under regulation 884 B (11), Staff recommends waiving 100% of the penalties in the interest of Justice.

RECEIVED

APR 07 2022

Initial: \_\_\_\_\_  
Berkeley Rent Board

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*

Property Address: 1300 Delaware St. Berkeley, CA 94702

Owner: 1300 Delaware LP - Tesseract Capital Group

Date of acquisition, if new owner: 7/31/2019

Name & relationship of person filing request, if not owner: William Chu - Partner of 1300 Delaware LP

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.

*We are requesting for waiver of the late registration penalties for two primary reasons:*

1) *We are a new owner in Berkeley and our third-party property management company – Apartment Management Consultants, is also new to managing rentals in Berkeley. Thus, the registration fees for the units at 1300 Delaware St. were missed.*

2) *We have and are continuing to experience financial hardships due to the COVID-19 pandemic.*  
a. *We were unable to finish the renovations of the property according to schedule of March, 2020. Due to the city-wide restrictions on construction activity, final completion was delayed until September 2020. We did not become over 90% occupied until December 2020.*

b. *Many of our current tenants are still experiencing financial difficulties. To date, we have been unable to collect nearly \$55k in rent due to tenants being affected by COVID. This includes three residents who have yet to pay rent for over 90 days and two who haven't paid over the last 60 days.*

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

Date: 8/11/2021 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: Will@tcg.capital

Mailing Address: 2191 Market St. STE A, San Francisco, CA 94114

Phone Number: 510-813-0494 Fax Number: 415-233-4044

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**

<b>Waiver No:</b> W5078	<b>Property address:</b> 1951 CHESTNUT ST	<b>Transferred:</b> 01/24/2021
<b>Exempt units (as of February 2021):</b> None		
<b>Owner(s):</b> RUEGG & ELLSWORTH LLC	<b>Waiver filed by:</b> PROPERTY MANAGER	<b># of Units:</b> 36
<b>Other Berkeley rental property owned:</b> None		

**Late payment/penalty history:** Unfortunately, the current owner did not have any financial history to review. In the last five fiscal years the prior owner did not make 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
-	-	-	-	-	-	-
<b>Totals (penalties previously assessed)</b>				<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

**Penalties Currently Under Consideration**

**Reason for Penalties:** Owns or manages more than 11 units

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2022-23	36	\$9,000.00	12/06/2022	\$9,000.00	\$0.00	\$9,000.00
<b>Totals</b>				<b>\$9,000.00</b>	<b>\$0.00</b>	<b>\$9,000.00</b>

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

**Good cause claimed by owner:** There was confusion between the property owner and the property management company on who was going to pay the 22/23 registration fee.

**Recommendation:** Staff recommends waiving 100% of the penalty fee.

**Staff Analysis:** The 36-unit multi-residential property located at 1951 Chestnut St has been owned by the current owner since January 2022. Unfortunately, the current owner did not have any financial history to review. In the last five fiscal years the prior owner did not make any late payments. The property manager states in their waiver that, "the property management staff thought the owner paid and the owner thought the property management company paid the 22/23 registration fee". Unfortunately, neither party paid by the July 1st deadline. Under regulation 884 B (6), this property owns more than 11 units and must be heard by the Board. However, under Regulation 884 C, this property qualifies to have 100% of the penalty fee waived based on payment history.

RECEIVED

DEC 6 - 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: 1951 Chestnut Street, Berkeley 94702

Owner: Ruegg & Ellsworth LLC

Date of acquisition, if new owner: \_\_\_\_\_

Name & relationship of person filing request, if not owner: Jon Shahanian / Lapham Company - property mgr.

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 Lapham Company, Inc. was retained as Property Manager of 1951 Chestnut Street at close of purchase escrow. In the new onboarding process, our office staff believed that the Ruegg & Ellsworth office had completed the registration. And the Ruegg & Ellsworth office assumed that Lapham Company had completed the registration. We did not know of the failure to register until we received the penalty notice.

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

Date: 11/30/2022 Signature: [Signature] property manager / Agent

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.

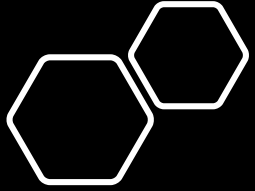
Email Address: Jon@laphamcompany.com

Mailing Address: 4844 Telegraph Avenue, Oakland, CA 94609

Phone Number: 510-594-7600 ext 102 Fax Number: 510-594-7611

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

FY 2024 Registration Fee  
Recommendation



FY 2023  
Adopted  
Budget

Maintained Registration Fee  
Levels

Deficit Spend by \$925,000

Consider FY24 Fee Increase

# RENT BOARD RESERVE POLICY

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- Target to maintain funds to cover 1-2 months of operations
- This equals 8-16% of expenditures
- Board has maintained over 16% recently
- FY22-23 Budget authorized reducing reserve to 6.2%



# Annual Revenue by Registration Fee Type

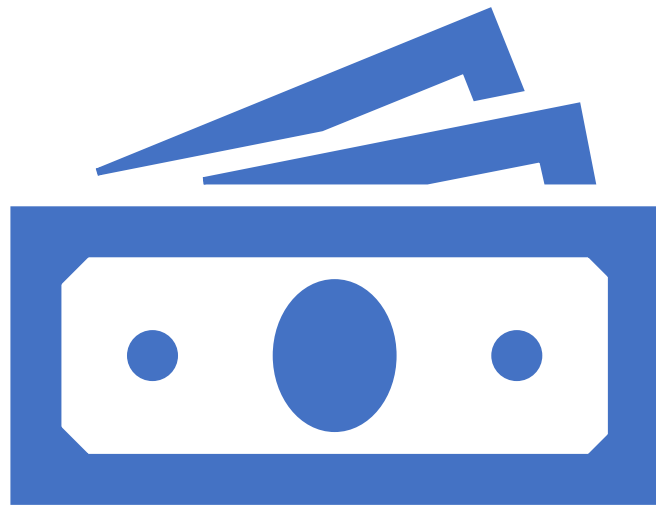
- Fully-Covered Registration fee  
19,600 Units @ \$250 unit = \$4,900,000 Revenue
- Partially-Covered Measure MM fee  
5,000 Units @ \$150 unit = \$750,000 Revenue
- Affordable Housing Measure MM fee  
586 Units @ \$37 unit = \$21,682 Revenue
- Summer Fraternity & Sorority Rental fee  
601 Units @ \$70 unit = \$42,070 Revenue



# FY 2023 Revenue Collection



- Adopted FY 2023 Revenue = \$5,687,000
- Actual Mid-Fiscal Year Revenue = \$5,686,913
- Updated Revenue Projection = \$5,850,934



# FY 2023 Expenditures

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- Authorized Expenditures = \$6,798,105
- Actual Expenditures = \$2,976,355  
(As of 12/31/22)
- Updated Projected Expenditures = \$6,601,880

# FY 2023 Budget Deficit

- Projected Revenues = \$5,851,000
- Projected Expenditures = \$6,602,000
- Projected FY 2023 Budget Deficit =  
(\$751,000)

# Projected Year End Status of Board's Uncommitted Reserve

	Start of Fiscal Year	End of Fiscal Year	Change
Adopted	\$1,348,978	\$423,473	-925,505
Updated Projection	\$1,348,978	\$974,133	-374,785

# FY 2024 Status Quo Budget

- Budgets for existing staff positions only
- Includes known or reasonably anticipated cost increases
- Projected FY24 status quo expenditures = \$6,660,405
  - Personnel Costs +\$186,000 (1% COLA with benefit cost increases)
- Status quo FY24 is \$138,000 less than FY23 adopted budget



# FY 2024 Baseline Revenue Requirements

- \$6,560,000 Registration Revenue Required to cover status quo expenditures
- **Approx. -\$710,000 budget deficit at current fee levels**
- \$285 Fully-Covered & \$172 Measure Fee required to cover status quo expenditures
- Targeting 8% Reserve reduces necessary fee levels to \$270 (fully-covered) and \$162 (Measure MM)
- Approx. 19,600 fully-covered and 5,000 partially covered units

# Fully-Covered Fee Set at \$250 for FY 2018/19

Costs have increased by +\$1.5 million since FY 2018/19

Cost Increases due primarily to:

- Increased Personnel Costs +\$700,000
- New Positions & Staffing Model Restructuring +\$621,000
  - 75% covers 3 positions added to administer Measure MM (@\$460k)
- Commissioner Stipend Increase +\$106,500
- Building Rent & BUSD Meeting space + \$95,000
- PC Replacement & Software Lic. +\$65,805

Savings for Database Support & Maintenance = \$95,100

# Five Core Rent Board Services



OUTREACH



COUNSELING



HEARINGS &  
MEDIATIONS



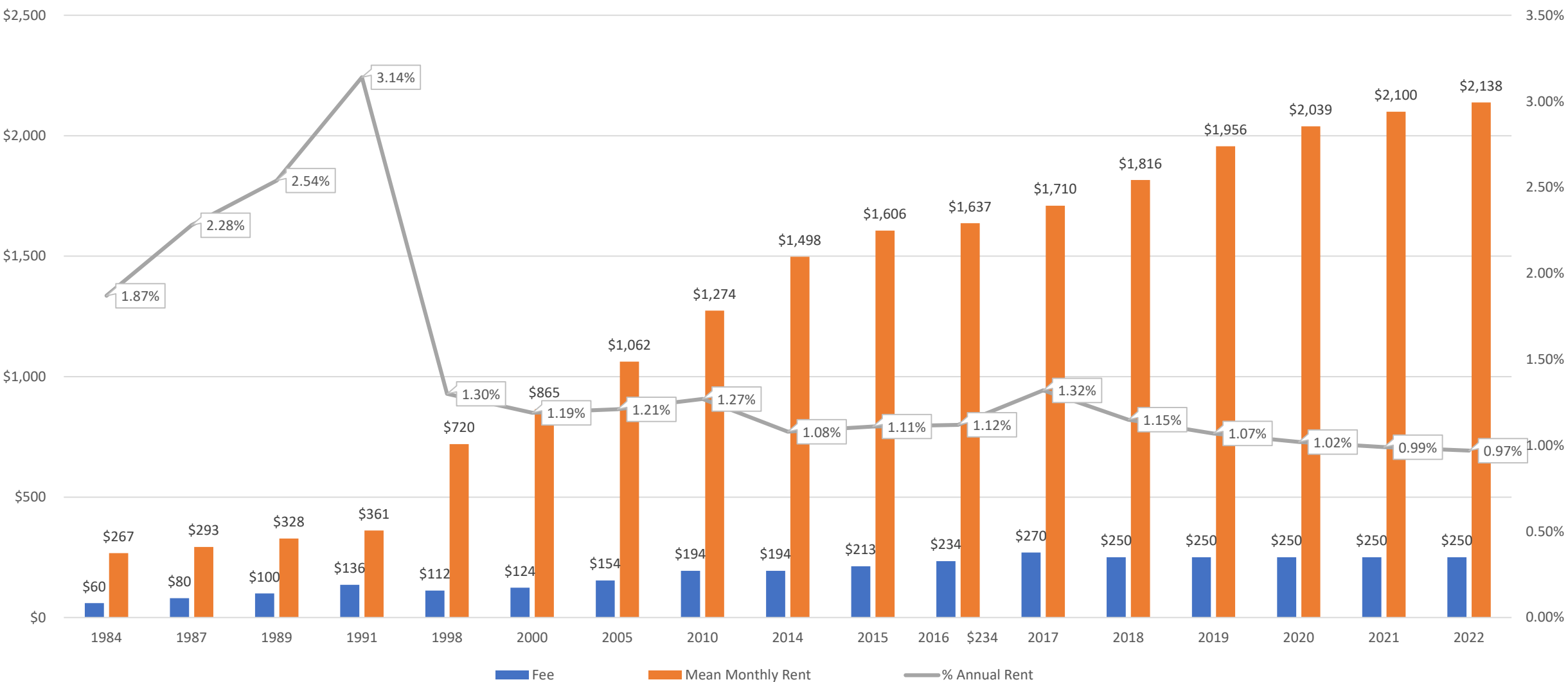
REGISTRATION &  
RENT CEILING  
RECORDS



POLICY,  
ADMINISTRATIVE,  
AND LEGAL  
SUPPORT



# Registration Fee as Percentage of Annual Rental (Range of 0.97% to 1.32% since 1998)



## Fee Range Using % of Annual Rent as a Guide

- \$2,138 average (mean) 2022 rent per month as of December 2022
- Reg. Fee in range of 0.97% and 1.32%\* since 1998
- 0.97% to 1.32% = \$251 to \$341
- Post Costa-Hawkins (1999 and after) – Reg. Fee generally in range of 1.07% to 1.27%
- 1.15% to 1.27% = a fee range of \$296 to \$328
  
- \*Reached 1.32% with one-time \$20 fee for RTS (Base fee was 1.22% & one-time RTS fee 0.10%)

# Inflation Compared to Average Rent Increase

Date	CPI	Avg. (mean) Annual Rent
June 30, 2017	286.062	\$1,816
Dec 31, 2022	331.222	\$2,154
	+15.79%	+18.06%
Applied to Fully-Covered Fee	\$289	\$297

# Considerations for Setting the FY 2023/24 Fees

Closing Budget Deficit

Measured Fee Increase for FY 2023/24

Increasing Capacity

Targeting 16% Reserve

Returning to “Pay as you go” strategy by FY 2024/25

# Measure MM or Partially Covered Units

- January 2023 average MM unit rent = \$3,392 0.39% would be \$159 per unit
- Measure MM revenue is approx. 12-14% of Revenue
- MM = 18% of total units and 20% of registered units

Registration Year	Measure MM Unit Fee	Mean Monthly Rent (start of year)	% of Annual Rent
2021	\$100	\$3,461	0.24%
2022	\$150	\$3,229	0.39%

Budget &  
Personnel  
Committee  
Recommendation



Set Fully-Covered Registration Fee  
at \$290 for FY 2023/24



Set Partially-Covered Measure MM Fee  
at \$178 for FY 2023/24

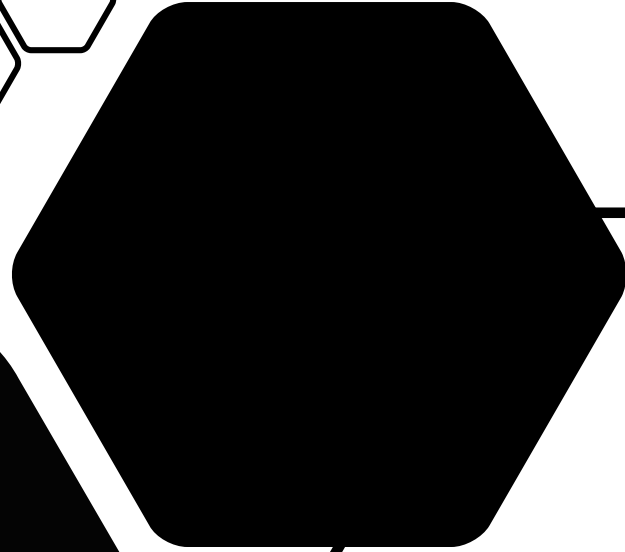
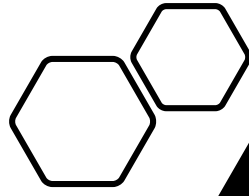


Maintain 100% Affordable MM fee at \$37  
& Summer Rental Fee at \$70 per unit



Target 16% Reserve

Questions





DATE: March 16, 2023

TO: Honorable Members of the Rent Stabilization Board

FROM: DéSeana Williams, Executive Director  
Lief Bursell, Senior Planner

SUBJECT: Recommendation to set the Fiscal Year 2023/24 Annual Registration Fees

### **Recommendation**

That the Board adopts the following resolutions concerning the Fiscal Year (FY) 2023/24 annual registration fees:

**Proposed Resolution 23-06** – adopting the annual registration fee, due July 3, 2023, at \$290 per unit for fully-covered units. This fee is calculated based on the revenue necessary to cover recurring operational and capital expenses for the program's services to fully controlled rental units.

**Proposed Resolution 23-07** – adopting the annual registration fee, due July 3, 2023, at \$178 per unit for partially-covered Measure MM units.

This fee is calculated based on the revenue necessary to cover the expenses associated with registering and providing services for Measure MM units.

**Proposed Resolution 23-08** – adopting a \$37 per unit annual registration fee, due July 3, 2023, for Measure MM units in affordable housing projects. This fee is calculated based on the revenue necessary to cover the expenses to register and provide services for Measure MM units associated with affordable housing projects managed by a non-profit and have an operative regulatory agreement with the City of Berkeley through its Housing Trust Fund program.

### **Background and Need for Rent Stabilization Board Action**

Legally, the Board has until the end of June to adopt a line-item budget and expenditure authorization level for FY 2023/24. However, the Board traditionally sets the registration fee at a meeting sometime in April or May to provide enough time for staff to print and mail the annual bill in May. State law requires the Board to set a Public Hearing to garner public input before considering any increase to the existing fee level.<sup>1</sup> Setting the fee in March would allow staff the necessary time to prepare the annual bill mailing.

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<sup>1</sup> See California Government Code Section 66016.



The Budget & Personnel Committee has met two (2) times thus far in calendar year 2023 to review various aspects of the agency's budget and staffing model and agree upon the appropriate recommendation for the FY 2022/23 registration fee levels. At their February 22, 2023 meeting, the Budget & Personnel Committee voted to recommend the Board increase the fully-covered registration fee from \$250 to \$290 per unit and the partially-covered Measure MM unit fee from \$150 to \$178 per unit. The Committee also recommends that the Board maintain the Measure MM fee for specific affordable housing projects funded by the City of Berkeley Housing Trust Fund at \$37 per unit.

Board members and Committees are encouraged to submit any requests or suggestions for next year's budget over the next month to be reviewed by staff and the Budget and Personnel Committee in time for inclusion in the final FY 2023/24 budget recommendation.

#### Fiscal Year 2022/23 Budget Update

The Board's adopted budget anticipated the agency collecting \$5,687,000 in revenue for the current fiscal year. As of December 31, 2022, the agency has collected \$5,686,913 and is on pace to exceed this amount. As of February 2, 2023, there were 243 delinquent fully-covered unit accounts and 311 delinquent partially-covered or Measure MM unit accounts that owed a total of 190,766 and 136,518, respectively, a total of \$327,284. Assuming the agency collects at least half the amount of these fees during the remainder of this fiscal year, the agency projects to collect around \$5,851,000 in revenue for FY 2022/23.

As of December 31, 2022, the Board has expended \$ 2,976,355. Actual mid-year expenditures are slightly less than anticipated in the Board's adopted budget. Personnel expenditures were below projections in the first half of the year due to the turnover of two Office Specialist positions and the vacant Policy Director position. When adjusting for these savings, staff project that total FY 2022/23 expenditures will be nearly \$200,000 less than the Board authorized in its adopted budget.

Staff will prepare the 3rd quarter budget update for review by the Budget & Personnel Committee in May. It will be provided to the Board at its June 15, 2023, meeting as an attachment to the Budget & Personnel Committee's FY 2023/24 budget recommendation.

#### Considerations for Setting the FY 2023/24 Registration Fees

The Board should consider the following information when considering the Budget & Personnel Committee's recommendations and determining the appropriate levels for the FY 2023/24 registration fees.

#### *Closing Budget Deficit*

The Board has elected a deficit spending strategy for the past four fiscal years to avoid increasing registration fee levels while landlords and tenants struggled with economic hardships stemming from the COVID-19 pandemic. The Board's adopted FY 2022/23 budget authorized deficit spending of up to \$925,000. While staff is currently projecting, the Board will only need to deficit spend by approximately \$400,000 this year. Operating in this manner is not sustainable on an ongoing basis.

Staff and the Budget & Personnel Committee are projecting a budget deficit of \$710,000 for FY 2023/24. The Board's uncommitted reserve does not have sufficient funding to absorb over

\$700,000 of deficit spending while maintaining the targeted 8%-16% reserve. Detailed information explaining the cost increases that have led to the Board's budget deficit is in the *Background Information and Data for Public Hearing on the FY 2023/24 Budget and Possible Increase in the Annual Registration Fee*, included separately in the Board's agenda packet.

#### *Measured Fee Increase for FY 2023/24*

The Board initially set the fully-covered registration fee at \$250 per unit for the FY 2018/19 registration period. Since then, inflation has increased by 15.8%, and the average rent in Berkeley has increased by 18.1% since December 31, 2022. Applying a 15.8% to 18.1% increase to the \$250 fee would result in a fee ranging from \$289 to \$297 per unit. Increasing the fee within this range would allow the Board's revenue to catch up with cost increases that have occurred since FY 2018/19 and, most importantly, close the projected budget deficit.

#### *Expanding Staff Capacity*

Currently, payroll, finance, and budgetary functions are ineffectively splintered between several work units. On October 20, 2022, the Board authorized the creation of a new Finance Manager position in the Administrative and Fiscal Manager classification tasked with creating a new Finance Unit within the Rent Board. The Finance Unit will handle all the agency's finance, budgetary, payroll, and contract functions. The City of Berkeley's Human Resources Department has finished recruiting a list of qualified candidates, and staff has begun interviews. Staff anticipates filling this position by May of 2023.

The Finance Manager will oversee operationalizing and supervising all budgetary, payroll, and finance. They will work with the Executive Director to create a new Rent Board Finance Unit that will also be responsible for contracting and purchasing activities. There will be supplemental information provided to the Board on the structure and composition of the Finance Unit after the Finance Manager is hired. The unit will require at least one additional full-time staff person, possibly in the Accounting Technician classification.

#### *Possible Office Relocation*

The agency's current lease with 2001 Center Street LLC will expire at the end of February 2024, and the Executive Director has begun the process of looking into potential new locations. Updates will be provided to the Board if any suitable sites are identified.

The size of the agency's current office space limits the Rent Board's ability to grow. There are no additional workspaces that aren't currently reserved for existing staff positions, and there is a severe lack of meeting space. The Executive Director hopes to identify a larger office space that gives the agency room to grow, provides for a better provision of on-site services, allows for a more inclusive work environment, and remains centrally located and easily accessible by transit.

#### *Targeting a 16% Reserve*

The Board has recently elected to adopt annual budgets that authorize a high level of deficit spending that relies on reducing the Board's uncommitted reserve to avoid registration fee increases while the rental housing market was still recovering from the economic impacts of the COVID-19 pandemic. In recent years the Board has authorized reducing the uncommitted reserve as low as 4%-6%, well below the Board's historical 8% to 16% reserve target. Staff and the Budget & Personnel Committee anticipate the Board will begin the FY 2022/23 fiscal year with over \$950,000 in uncommitted reserves. This reserve level represents just over 14% and

does not provide adequate resources to cover the program's recurring expenditures for two months. Staff and the Budget & Personnel Committee recommend that the Board target a 16% reserve and only reduce the uncommitted reserve below that level in extreme or emergency situations.

Returning to a “Pay as you go” Budget Strategy

Prior to the COVID-19 pandemic, the Board had committed to a budget strategy of increasing the registration fee in a "pay as you go" manner, raising it enough to meet budget commitments outlined for the upcoming fiscal year while at the same time attempting to maintain an uncommitted reserve within the Board's targeted range. This adopted strategy responded to property owners' desire to accommodate operational inflation in smaller, real-time adjustments and avoid substantial registration fee increases in any given year. While the Board deviated from this strategy to prevent increasing the fee, it is a best practices strategy that produces a balanced budget and leaves the Board's reserve for its intended purpose. This approach should also result in more frequent but smaller future fee increases.

A "pay as you go" strategy produces a balanced budget because it necessitates that annual revenues are set at a level sufficient to cover recurring costs. If the Board believes its recurring costs will increase by \$100,000, then additional "new" revenue of \$100,000 should be identified. Under this strategy, the prior year's savings and/or a drawing down of the reserves should only be used for one-time or short-term expenses. Staff recommends the Board return to the "pay as you go" strategy once it addresses the current budget deficit and the uncommitted reserve is funded at the Board's target level.

The following table shows the registration fee as a percentage of the rent, which is the most relevant measure of the impact of any fee.

<b>Fees as a percentage of rent</b>			
<b>Year</b>	<b>Fee</b>	<b>Mean Monthly Rent</b>	<b>% Annual Rent</b>
1984	\$60	\$267	1.87%
1987	\$80	\$293	2.28%
1989	\$100	\$328	2.54%
1991	\$136	\$361	3.14%
1998	\$112	\$720	1.30%
2000	\$124	\$865	1.19%
2005	\$154	\$1,062	1.21%
2010	\$194	\$1,274	1.27%
2014	\$194	\$1,498	1.08%
2015	\$213	\$1,606	1.11%
2016	\$234	\$1,637	1.12%
2017	\$270	\$1,710	1.32%
2018	\$250	\$1,816	1.15%
2019	\$250	\$1,956	1.07%
2020	\$250	\$2,039	1.02%
2021	\$250	\$2,100	0.99%

\*Budget & Personnel Committee recommended fee level

2022	\$250	\$2,138	0.97%
2023	\$290*	\$2,154	1.12%

The shaded area reflects a pre-vacancy decontrol program, while 1998 transitioned from full rent control to decontrol. Mean monthly rent is calculated from the preceding calendar year, meaning the 2023 registration fee compares the fee with the average (mean) monthly rent in 2022.

If the Board increases the fully-covered fee to \$290, the fee will be 1.12% of the average (mean) annual rent for controlled rental units in Berkeley. Since the beginning of vacancy decontrol, the registration has mostly been in a range of 1%-1.30%, and 1.12% is in the middle to lower area of this range.

**Conclusion**

Staff and the Budget & Personnel Committee recommend that the Board adopt resolutions to set the fee for fully covered units at \$290 and for partially covered units subject to Measure MM at \$178 per unit. The Committee also recommends that the Board maintain the lower \$37 fee for partially covered units subject to Measure MM in affordable housing projects managed by a non-profit and within the regulatory period established in a regulatory agreement with the City of Berkeley through its Housing Trust Fund program.

**Name and Telephone Number of Contact Person**

DéSeana Williams, Executive Director (510) 981-6903

\*Budget & Personnel Committee recommended fee level

## RESOLUTION 23-06

### SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR FULLY-COVERED UNITS; DUE JULY 3, 2023

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

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

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

WHEREAS, the Executive Director and Rent Stabilization Board believe that new recurring annual revenues of at least \$6,800,000 in FY 2024 will be necessary to meet the Program's operating needs; and

WHEREAS, because of the ongoing housing crisis, demand for Rent Stabilization Program services has increased dramatically in recent years, including an estimated 40% to 60% increase over the past 9 years; and

WHEREAS, the Rent Stabilization Program has provided important services to tenants and landlords during the COVID-19 pandemic and relief effort; and

WHEREAS, the Board believes that, to the extent possible, the Program should continue to meet the needs of owners and tenants requesting our services and maintain a staffing level to allow that to happen; and

WHEREAS, inflation has increased approximately 50% and average rents of controlled units have increased by approximately 60% since 2009; and

WHEREAS, since 2009, the base annual registration fee has only been increased three times by a total of \$56; and

WHEREAS, the current fee of \$250 represents 0.97% of the average (mean) monthly rent for rental units regulated by the Berkeley Rent Stabilization Program; and

WHEREAS, in FY 2019 the Board adopted a fee of \$250, \$245 to cover necessary operational costs and \$5 dedicated to capital needs; and

WHEREAS, in FY 2020 the Board again adopted a fee of \$250, \$245 to cover necessary operational costs and \$5 dedicated to capital needs; and

**RESOLUTION 23-06**

**SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR FULLY-COVERED UNITS; DUE JULY 3, 2023 (Page 2)**

WHEREAS, in FY 2021, FY 2022, and FY 2023 the Board adopted a fee of \$250 to cover only necessary operational costs; and

WHEREAS, because of salary related savings and higher than increased revenue in FY 2023, the Board has an operational reserve balance of over 12% of annual operational expenditures; and

WHEREAS, the Board is targeting a higher operational reserve balance of 16% of annual operational expenditures for FY 2024; and

WHEREAS, to reach the revenue targets referenced above, an annual registration fee of \$290 per unit fee for fully covered units is required; and

WHEREAS, the Board will meet to consider and adopt a final budget document detailing the revenues, line-item expenditures and staffing model in June 2023.

NOW THEREFORE, BE IT RESOLVED that the annual FY 2024 registration fee for fully covered rental units, due July 3, 2023, is hereby set at \$290 per unit; and,

BE IT FURTHER RESOLVED that the Executive Director shall produce a final budget document detailing the revenues, total expenditure level (recurring and one-time costs) broken down in line-item detail, and staffing model for the Board's consideration and adoption at a scheduled meeting in June 2023.

Dated: March 16, 2023

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

YES:

NO:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Leah Simon-Weisberg, Chairperson  
Rent Stabilization Board

Attest: \_\_\_\_\_  
DéSeana Williams, Executive Director

## RESOLUTION 23-07

### SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS; DUE JULY 3, 2023

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

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

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

WHEREAS, the Acting Executive Director and Rent Stabilization Board believe that new recurring annual revenues of at least \$6,800,000 in FY 2024 will be necessary to meet the Program's operating needs; and

WHEREAS, Measure MM, which was placed on the general election ballot by the Berkeley City Council on July 30, 2020, and subsequently passed by the voters on November 3, 2020, now requires the Board to register certain partially covered rental units, including: rented single-family homes, condominiums, and newly-constructed units; and

WHEREAS, on December 17, 2020, by Resolution 20-17, the Rent Stabilization Board, approved the implementation of registration for partially covered units due to the amendments to the Rent Stabilization Ordinance mandated by Measure MM; and

WHEREAS, Resolution 20-17 established that the Rent Stabilization Board will not charge a Registration Fee for partially covered Measure MM units for the remainder of the FY 2020/2021; and

WHEREAS, Resolution 20-17 further resolved that any additional expenses associated with registering or providing services for partially covered units during the remainder of the current fiscal year shall be considered and potentially increase the Registration Fee for partially covered units for the 2021/2022 Fiscal Year; and

WHEREAS, Resolution 20-17 authorized Rent Stabilization Program staff to offer a number of services previously unavailable to tenants and landlords of partially covered units including, but not limited to mediation regarding a variety of different rental housing concerns and counseling regarding: evictions and security deposits, the Berkeley Emergency Response Ordinance, the local eviction moratorium (BMC Section 13.110), the state eviction moratorium (AB 3088), the statewide anti-rent-gouging law (AB 1482), the Tenant Buyout Ordinance, the Rental Housing Safety Program, and the Short-Term Rental Ordinance; and

## RESOLUTION 23-07

### SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS; DUE JULY 3, 2023 (Page 2)

WHEREAS, in FY 2022 the Board adopted a total fee of \$150, \$100 to cover the additional expenses associated with registering and providing services for partially covered Measure MM units during FY 2022, and \$50 to cover expenses associated with registering and providing services in FY 2021; and

WHEREAS, in FY 2023 the Board adopted a fee of \$150 to cover the expenses associated with registering and providing services for partially covered Measure MM units during FY 2023; and

WHEREAS, the Rent Stabilization Program has provided important services to tenants and landlords of partially covered Measure MM units during the COVID-19 pandemic and relief effort; and

WHEREAS, a little over 5,000 units have registered under Measure MM thus far in FY 2023; and

WHEREAS, the Executive Director and Rent Stabilization Board believe that \$912,000 in annual revenue will be necessary to register and provide services to Measure MM units in FY 2024; and

WHEREAS, the Board believes that, to the extent possible, the Program should continue to meet the needs of owners and tenants of partially covered Measure MM units that request our services and maintain a staffing level to allow that to happen; and

WHEREAS, to reach the revenue target referenced above, a \$178 per unit fee for partially covered Measure MM units is required; and

WHEREAS, the Board will meet to consider and adopt a final budget document detailing the revenues, line-item expenditures and staffing model in June 2023.

NOW THEREFORE, BE IT RESOLVED that the annual FY 2024 registration fee for partially covered Measure MM units, due July 3, 2023, is hereby set at \$178 per unit; and,

BE IT FURTHER RESOLVED that Rent Stabilization Program staff will continue to collect information on the impacts and expenses associated with registering and providing services for partially covered Measure MM units in FY 2024.

Dated: March 16, 2023



**RESOLUTION 23-07**

**SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS; DUE JULY 3, 2023 (Page 3)**

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

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

\_\_\_\_\_  
Leah Simon-Weisberg, Chairperson  
Rent Stabilization Board

Attest: \_\_\_\_\_  
DéSeana Williams, Executive Director

## RESOLUTION 23-08

### **SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS IN AFFORDABLE HOUSING PROJECTS THAT ARE MANAGED BY A NON-PROFIT AND HAVE AN OPERATIVE REGULATORY AGREEMENT WITH THE CITY OF BERKELEY THROUGH ITS HOUSING TRUST FUND PROGRAM; DUE JULY 3, 2023**

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

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

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

WHEREAS, the Executive Director and Rent Stabilization Board believe that new recurring annual revenues of at least \$6,800,000 in FY 2024 will be necessary to meet the Program's operating needs; and

WHEREAS, Measure MM, which was placed on the general election ballot by the Berkeley City Council on July 30, 2020, and subsequently passed by the voters on November 3, 2020, now requires the Board to register certain partially covered rental units, including: rented single-family homes, condominiums, and newly-constructed units; and

WHEREAS, on December 17, 2020, by Resolution 20-17, the Rent Stabilization Board, approved the implementation of registration for partially covered units due to the amendments to the Rent Stabilization Ordinance mandated by Measure MM; and

WHEREAS, Resolution 20-17 established that the Rent Stabilization Board will not charge a Registration Fee for partially covered Measure MM units for the remainder of the FY 2021; and

WHEREAS, Resolution 20-17 further resolved that any additional expenses associated with registering or providing services for partially covered units during the remainder of the current fiscal year shall be considered and potentially increase the Registration Fee for partially covered units for the FY 2022; and

WHEREAS, Resolution 20-17 authorized Rent Stabilization Program staff to offer a number of services previously unavailable to tenants and landlords of partially covered units including, but not limited to mediation regarding a variety of different rental housing concerns and counseling regarding: evictions and security deposits, the Berkeley Emergency Response Ordinance, the local eviction moratorium (BMC Section 13.110), the state eviction moratorium (AB 3088), the statewide anti-rent-gouging law (AB 1482), the Tenant Buyout Ordinance, the Rental Housing Safety Program, and the Short-Term Rental Ordinance; and

## RESOLUTION 23-08

### **SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS IN AFFORDABLE HOUSING PROJECTS THAT ARE MANAGED BY A NON-PROFIT AND HAVE AN OPERATIVE REGULATORY AGREEMENT WITH THE CITY OF BERKELEY THROUGH ITS HOUSING TRUST FUND PROGRAM; DUE JULY 3, 2023 (Page 2)**

WHEREAS, Board staff will be able to provide tenants in these affordable housing units some, but not all, services it provides to other partially covered Measure MM tenants; and

WHEREAS, rental units in certain affordable housing project projects that are managed by a non-profit do not qualify for an exemption from registration under MM per Rent Stabilization Ordinance section 19.76.050.K; and

WHEREAS, the Rent Stabilization Program provides important services to these tenants, including counseling of low-income tenants in these units; and

WHEREAS, the Rent Stabilization Board's mediation program is available to tenants, property owners, and the non-profit managers with these units; and

WHEREAS, there are costs associated with providing the above referenced services to these units; and

WHEREAS, in FY 2022 the Board adopted a total fee of \$37, \$25 to cover the expenses associated with registering and providing services for these partially covered Measure MM units during FY 2022, and \$12 to cover expenses associated with registering and providing these services in FY 2021; and

WHEREAS, in FY 2023 the Board adopted a fee of \$37 per unit to cover the expenses associated with the registering and providing services for these partially covered Measure MM units during FY 2023; and

WHEREAS, the Rent Stabilization Board does not want to overburden affordable housing service providers with increasing fees given that they do not operate for a profit; and

WHEREAS, the approximately 600 units in affordable housing projects have registered under Measure MM thus far in FY 2023; and

WHEREAS, the Rent Stabilization Program has provided important services to tenants and landlords of partially covered Measure MM units during the COVID-19 pandemic and relief effort; and

**RESOLUTION 23-08**

**SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS IN AFFORDABLE HOUSING PROJECTS THAT ARE MANAGED BY A NON-PROFIT AND HAVE AN OPERATIVE REGULATORY AGREEMENT WITH THE CITY OF BERKELEY THROUGH ITS HOUSING TRUST FUND PROGRAM; DUE JULY 3, 2023 (Page 3)**

WHEREAS, the Board believes that, to the extent possible, the Program should continue to meet the needs of owners and tenants of Measure MM units, including units in affordable housing projects, that request our services and maintain a staffing level to allow that to happen; and

WHEREAS, to reach the revenue target referenced above, a \$37 per unit fee for partially covered Measure MM units is required for FY 2024; and

WHEREAS, the Board will meet to consider and adopt a final budget document detailing the revenues, line-item expenditures and staffing model in June of 2023

NOW THEREFORE, BE IT RESOLVED that the annual FY 2024 registration fee, due July 3, 2023, for partially covered Measure MM units owned by a limited partnership and having a managing general partner that qualifies as a 501(c)(3) non-profit organization that are in a housing project within the regulatory period established by a regulatory agreement with the City of Berkeley through its Housing Trust Fund program.

BE IT FURTHER RESOLVED that Rent Stabilization Program staff collect information on the impacts and expenses associated with registering and providing services for partially covered Measure MM units in affordable housing projects in FY 2024.

Dated: March 16, 2023

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

YES:

NO:

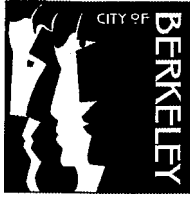
ABSTAIN:

ABSENT:

---

Leah Simon-Weisberg, Chairperson  
Rent Stabilization Board

Attest: \_\_\_\_\_  
DéSeana Williams, Executive Director



**Rent Stabilization Board  
Legal Unit**

DATE: March 16, 2023

TO: Honorable Members of the Rent Stabilization Board

FROM: Oliver Ehlinger, Staff Attorney

SUBJECT: Adopting a Summer Rental Period Registration Fee for Sororities and Fraternities for the 2023/2024 Registration Year

### **Recommendation**

That the Board adopt Resolution 23-09 to authorize a Summer Rental Period registration fee of \$70.00 as well as procedures for sororities and fraternities for the pending 2023/2024 registration year. Under the proposed resolution, qualifying sororities and fraternities shall be eligible to participate in a revised registration process which shall include a prorated registration fee for summer rentals provided that the following conditions are met: 1) A contact person/liaison must be provided for all future Board-related matters; 2) Any participating sorority or fraternity must be in good standing with the registration requirements of the ordinance; 3) All qualifying sororities and fraternities must meet the requirements for sorority or fraternity status as determined by the Rent Board; and 4) Participating sororities and fraternities must comply with registration procedures developed by the Agency.

At its February 22, 2023 committee meeting, the Budget & Personnel Committee approved the continuance of the \$70.00 Fraternity/Sorority Summer Registration Fee. The attached Resolution, which has been continually re-adopted since 2010 is attached.

### **Background**

In late 2009/early 2010 our agency was made increasingly aware that many fraternities were and had been renting out some of their rooms during the summer to non-members to support their budgets and operating costs. We discovered that this practice was, in fact, widespread. Since units that are not expressly exempted under the ordinance must be registered we were compelled to investigate the matter. Our investigation confirmed that fraternity houses have routinely been renting to non-members, particularly during the summer months.

Because the Board believed that most fraternities were unaware of their obligation to register these seasonal/summer units, the Board authorized an Amnesty Program in November 2010 for chapters that had been renting out rooms to non-members on a seasonal or summer basis. The

Amnesty Program was successful in its goal of resolving prior years registration fees owed the agency as the Board collected \$49,583 in past due registration fees from twenty-two (22) chapters. In addition, through the Amnesty Program, staff was able to make positive contacts with various members of the fraternity community including property owners, property managers, student representatives and UC Berkeley staff.

At the conclusion of the Amnesty Program fourteen lawsuits were filed in Superior Court against those property owners and chapters that had not availed themselves of the Amnesty Offer. All of those cases resolved via settlement.

Between 2010 and 2016, the Board, annually adopted resolutions continuing the practice of allowing a limited summer rental program, provided specific conditions were met and adhered to.

### **Measure AA**

The passage of Measure AA in 2016 codified the determination that a room rented in a fraternity or sorority would be exempt from the ordinance only if it is occupied by a member of the fraternity or sorority and that the property is owned by the chapter or an entity whose sole purpose is the maintenance of the chapter.

Board Regulations 520 and 808 were adopted in 2017 to implement the fraternity/sorority registration process. Regulation 520 codifies the language in Measure AA setting out the terms for exemption for a fraternity/sorority room and Regulation 808 codifies the ability of the Board to set and charge an annual reduced registration fee for rooms rented out by chapters to non-members on a seasonal basis.

### **Summer Registration Process**

As a result of the Amnesty Program, staff had numerous discussions with representatives of the Greek community regarding our agency's registration process. These talks, which covered the unique needs and concerns of fraternities, were with chapter presidents, students, property managers, members of the Fraternity Alumni Council (FAC), the FAC as a group, alumni representatives, and attorneys representing a consortium of chapters. This process enabled all stakeholders to be educated on the rights and responsibilities of the Greek community as it related to rent control and housing.

After numerous committee meetings and Board presentations, the Board approved, via resolution, a Summer Registration Process for fraternities at its May 14, 2012 meeting. The pilot summer registration process for fraternities required chapters to:

- 1) Pay a reduced, pro-rated fee of \$50 per unit for summer rentals;
- 2) Fill out Registration Forms specifically tailored to summer rentals and;
- 3) Provide the Board with a permanent contact person/liaison.

For the 2012/13 year, the agency collected \$9,520.00 in registration fees from the various fraternities representing the registration of one hundred seventy six (176) units. As part of the registration process, staff conducted unannounced inspections of four chapters to ensure that Fraternity Summer Registration Forms were placed in the room as mandated by the Board's prior resolution. Forms were in place for these chapters.

The pilot program was renewed for the 2013/14 registration year. For the 2013/14 year, the agency collected \$8,144 in registration fees from the various fraternities representing one hundred sixty (160) units. Four chapters claimed full exemption and one chapter failed to make any payments. Two chapters paid summer registration fees approximately two weeks late.

For the 2014/15 registration year, the agency collected \$8,076 in registration fees from the various chapters representing one hundred forty six (146) summer rental units and four full-time units. In addition to the \$8,076 in fees collected, the agency also collected \$9,506 in full-time registration fees due to two chapters having been suspended and renting to other tenants and one house being sold to private ownership and being rented as a rooming house.

Two chapters paid late but received Administrative Waivers. These chapters were notified of the ramifications should they continue to pay late in the future. One chapter remained in arrears for non-payment and was sued as part of our annual Small Claims Court efforts.

For the 2015/16 registration year, the agency collected \$8,786 in registration from the various chapters representing one hundred forty six (146) units.

For the 2016/17 registration year, the seasonal fee was increased to \$60 per room and the agency collected \$15,424 in registration fees from twenty-three (23) chapters representing nineteen (19) full-time units and one hundred eighty one (181) summer rental units.

For the 2017/18 registration year, the seasonal fee was increased to \$70 per room. The agency has collected \$11,600 in registration fees from one hundred forty (140) units representing eighteen (18) chapters. Two rooms were registered as "full-time" rentals. Two chapters paid full registration fees totaling \$8,370 due to their renting their houses to other chapters.

For the 2018/2019 registration year, the seasonal fee remained at \$70 per room. The agency has collected \$13,543 in registration fees and penalties from one hundred sixty-nine (169) units representing eighteen (18) chapters, Full registration fees totaling \$14,147 were paid for 57 units whose chapters chose to rent the houses out full-time to other chapters.

For the 2019/20 registration year, the seasonal fee remained at \$70 per room. The agency collected \$14,259 in registration fees and penalties from twenty-one (21) chapters registering one hundred sixty (160) rooms. Four chapters paid the full registration fees for their house since those chapters rented out their houses to other fraternities. These fees totaled \$16,250 and represents sixty-five (65) units.

For the 2020/21 registration year, the seasonal fee remained at \$70 per room. The agency collected \$7,490 in registration fees from twenty (20) chapters registering one hundred seven

(107) rooms. Four chapters paid full registration fees for either the entire property or some of the units on the property for fifty-four (54) units totaling \$13,440. Nine chapters claimed no summer rentals and two chapters failed to provide registration fees or forms. In total, the agency collected \$20,930 for the 2020/21 Summer Fraternity Registration.

For the current 2021/22 registration year, the seasonal fee remained at \$70 per room. The agency collected \$7,280 in registration fees from eighteen (18) chapters registering one hundred four (104) rooms. Six chapters registered a total of twenty-seven (27) rooms as fully rent-controlled and paid \$6,750 in registration fees. In total, the agency collected \$18,280 in registration fees. Thirteen (13) chapters claimed all rooms were exempt.

For the current 2022/23 registration year, the seasonal fee remained at \$70 per room. The agency collected \$9870 in summer registration fees from seventeen (17) chapters registering one hundred forty-one (141) rooms. Four chapters registered a total of 48 rooms as fully rent-controlled and paid \$12,000 in registration fees. In total, the agency collected \$21,870 in registration fees.

### **Registration for Sororities**

As the initial research, review and compliance activities with fraternities wound down in 2012, the Board made clear that staff was to begin communications with the various sororities. Commencing in January 2013, staff began this process.

Staff identified thirteen sorority chapters that owned and operated houses in Berkeley. As a result of staff review and investigation it was confirmed that no houses rented rooms to non-members. To determine the exempt status of sororities, staff corresponded with each chapter representative as well as conducted site inspections. As a result of these efforts, staff obtained declarations from chapter representatives affirming that no rooms/units were rented to non-sorority members.

Based on staffs' findings that no sororities are being rented to non-members, staff recommended reviewing their status every three years. Staff randomly contacted several chapters during 2015/16 and again during 2018/19 and have confirmed that their houses either remained closed down for the summer or exclusively reserved for their members. Staff will conduct additional similar random checks periodically in the future.

### **Conclusion**

For the most part, chapters have paid registration fees and filed Unit Status and/or Registration Forms. While staff has provided a moderate level of assistance to the various chapter representatives, a vast majority of chapters have been able to register their houses with little or no assistance. A discreet minority of chapters however have provided more of a challenge with late payment and/or failure to timely file the required forms. While staff is engaged in compliance efforts with these chapters, the reduced fee assessed has covered the costs of operating the summer rental program. As allowed by law, the attached resolution continues the program initially started in 2012 and staff proposes maintaining the seasonal registration fee at \$70.



We believe the proposed Resolution is the most fair and equitable way for the Board to address the matter of registering any possible sorority or fraternity summer rentals. For the majority of the Board's registration year, fraternities operate rental units that have been conditionally exempted from rent and eviction controls. While the non-member students who occupy these units are fully protected by rent and eviction controls during the summer, they uniformly vacate at the end of the summer break. Fraternities consistently rent these units at below market rents, and imposing a full fee and registration reporting requirement for such a short tenancy represents a substantial burden for an organization that exists for the sole purpose of maintaining the chapter/house. This process not only covers our costs to administer the program but also increases the likelihood that tenants renting these units will be timely informed of their rights.

**Name and Telephone Number of Contact Person:**

Oliver Ehlinger, Staff Attorney (510) 981-4930

## RESOLUTION 23-09

### ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2023/2024 FISCAL YEAR

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

WHEREAS, for over thirty-six years neither fraternities nor sororities were expressly exempt from the provisions of the Rent Stabilization Ordinance; and,

WHEREAS, as early as 1982, the City Attorney crafted legal opinions for the Rent Board and City Council that confirmed the applicability of the ordinance to fraternities and sororities due to their similarity to rooming houses; and,

WHEREAS, the Board did not charge a number of fraternities for Registration Fees before the 2012/2013 fiscal year, because the Board was not made aware that fraternities were routinely renting to non-members during the summer months; and,

WHEREAS, when the Board became aware of these summer rentals, the Commissioners authorized an amnesty program wherein the fraternities were only charged fees for three years and all penalties were forgiven; and

WHEREAS, by Resolution 12-07, the Board initiated a pilot program during the 2012/2013 fiscal year to charge all qualifying fraternities \$50 per unit for summer rentals to non-members in order to meet the anticipated costs for implementing services related to this discreet group of summer fraternity rentals; and

WHEREAS, Board staff was largely successful in registering fraternities' summer tenancies; and,

WHEREAS, before the 2013/2014 fiscal year, staff investigated summer rentals in sororities and found that the vast majority of sorority rooms did NOT qualify as controlled rental units; and,

## **RESOLUTION 23-09**

### **ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2023/2024 FISCAL YEAR (Page 2)**

WHEREAS, the Board adopted Resolution 13-04 on May 13, 2013, which made clear that the Board wishes to continue to charge a reduced fee for summer rentals in fraternities and wishes to extend the same option to sororities should they decide to provide housing to non-member summer tenants; and,

WHEREAS, the Board adopted similar resolutions in 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021, which made clear that the Board wishes to continue to charge a reduced fee for summer rentals in fraternities and wishes to extend the same option to sororities should they decide to provide housing to non-member summer tenants; and,

WHEREAS, with the passage of Measure AA, fraternities and sororities are now exempt under the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance (B.M.C. 13.76.050M) as long as a rental unit or room is rented to an active member of the chapter and that chapter owns the fraternity or sorority where the member is residing; and,

WHEREAS, on April 24, 2017, the Board adopted Rent Board Regulation 520 specifying that rental units located within a fraternity or sorority that is occupied by a non-member is subject to all sections of the Rent Control Ordinance and that tenants who occupy rental units for only part of the year in such chapters shall be considered "authorized seasonal rentals" and those rooms/units shall be charged a reduced registration fee; and,

WHEREAS, on April 24, 2017 the Board adopted Rent Board Regulation 808 specifying that an "authorized seasonal rental" of a fraternity or sorority is a rental that occurs during the summer months and that the Board is authorized to charge a reduced registration fee for these rentals and said fee shall be set when the Board sets its annual fee for all units; and

**RESOLUTION 23-09**

**ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2023/2024 FISCAL YEAR (Page 3)**

WHEREAS, on May 15, 2017 the Board set the summer rental fee at \$70 per unit; and

WHEREAS, on May 7, 2018 the Board set the summer rental fee at \$70 per unit; and

WHEREAS, on April 18, 2019 the Board set the summer rental fee at \$70 per unit; and

WHEREAS, on April 30, 2020 the Board set the summer rental fee at \$70 per unit; and

WHEREAS, on May 6, 2021 the Board set the summer rental fee at \$70 per unit; and

WHEREAS on April 21, 2022, the Board set the summer rental fee at \$70 per unit for the current 2022/2023 registration year; and

WHEREAS, on February 22, 2023 the Budget & Personnel Committee recommended the summer rental fee be maintained at \$70 per unit for the 2023/2024 registration year.

NOW, THEREFORE, BE IT RESOLVED that for the 2023/2024 registration year, the reduced registration fee for authorized seasonal rentals for qualifying fraternities and sororities shall remain at \$70 per unit for summer rentals to non-members in order to meet the anticipated costs for implementing services related to this discreet group of summer fraternity/sorority rentals; and,

BE IT FURTHER RESOLVED that for purposes of this Resolution, the "Summer Rental Period" shall be May 15, 2023, through August 13, 2023; and,

BE IT FURTHER RESOLVED that if a non-fraternity/non-sorority member remains a tenant during any time outside of the Summer Rental Period, the fraternity/sorority shall be required to pay a full registration fee as defined by Resolution 23-09 for the rental unit; and,

BE IT FURTHER RESOLVED that fraternities and sororities shall be required to submit Fraternity/Sorority Summer Registration Forms for each rental to a non-member living at the chapter during the Summer Rental Period; and,

## **RESOLUTION 23-09**

### **ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2023/2024 FISCAL YEAR (Page 4)**

BE IT FURTHER RESOLVED that fraternities and sororities shall post a copy of this Fraternity/Sorority Summer Registration Form in a clearly visible space in the room/unit occupied by the non-member tenant throughout the entirety of the Summer Rental Period; and,

BE IT FURTHER RESOLVED that all fraternities and sororities shall provide a permanent contact person to whom Board staff can send a bill (this person should not be a student, as the Board intends to maintain contact with this representative for all matters related to current and future registration and billing); and,

BE IT FURTHER RESOLVED that, this Resolution incorporates by reference the fraternities listed in Board Resolutions 12-07,13-04, 14-04, 15-03, 16-03, 17-06, 18-07, 19-10, 20-06, 21-08 and the sororities listed in Board Resolution 17-06, 18-07, 19-10, 20-08, 21-08, and 22-09;

BE IT FURTHER RESOLVED that the Board shall revisit the issue of which fraternities and sororities qualify for a reduced Summer Rental Period registration fee should the Board wish to adopt a similar fee in future years; and,

BE IT FURTHER RESOLVED that if another fraternity or sorority not identified by this Resolution submits a claim that it should qualify for the reduced Summer Rental Period registration fee, the fraternity/sorority shall submit its claim to the Board, and staff shall review any such claim and determine its eligibility; such determination may be appealed to the Board as other claims of exemption are reviewed; and,

BE IT FURTHER RESOLVED that in no case shall a fraternity or sorority be permitted to participate in this program to pay a reduced registration fee for the Summer Rental Period for the 2023/2024 fiscal year unless that fraternity/sorority has fully resolved any past due Board registration

**RESOLUTION 23-09**

**ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2023/2024 FISCAL YEAR (Page 5)**

fees and is otherwise in compliance with the Rent Ordinance registration requirements; and,

BE IT FURTHER RESOLVED that Board staff shall be empowered to investigate and inspect fraternities and sororities during the Summer Rental Period to ensure they are complying with the terms of this Resolution; and,

BE IT FURTHER RESOLVED that Board staff is authorized to develop rules and procedures to implement the counseling, registration, and services associated with this program; and,

BE IT FURTHER RESOLVED that violations of terms set forth in this Resolution shall require Board staff to charge fraternities and sororities a full registration fee for all units where violations are found and require that Board staff charge penalties allowed by Berkeley Municipal Code Section 13.76.080.

Dated: March 16, 2023

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



**WESTERN CENTER  
ON LAW & POVERTY**

## SB 460 (Wahab): FAIR CHANCE HOUSING

**SUMMARY:** The bill would establish the first statewide fair chance housing legislation which would provide a pathway for individuals with criminal records reentering society to access, obtain, and sustain housing. This bill removes structural housing exclusion by preventing rental housing providers from screening for criminal history of applicants during the advertisement, application, selection, or eviction process unless required by federal law.

**THE PROBLEM:** California has a preexisting housing crisis and homelessness catastrophe that is exacerbated by housing barriers for people with criminal records. In CA, an estimated 8 million people have criminal records, roughly one in five individuals.<sup>1</sup> Seventy percent of people experiencing homelessness have a criminal record.<sup>2</sup> Individuals with criminal histories often face daunting and unnecessary barriers to accessing, obtaining, and maintaining housing only because they have a criminal record.

For formerly incarcerated people who are reentering society, housing stability is a necessity for moving forward with their lives and reducing recidivism. If people released from prison do not have access to housing, they are 10 times more likely to be homeless and 27 times more likely to be unstably housed than the general public. This can result in increasing recidivism by 70% each time a person moves.<sup>3 4</sup>

Current state law allows housing providers to discriminate against a person based on their criminal record while accessing and obtaining housing. With the help of formerly incarcerated individuals and housing providers, some cities in California including Oakland and Berkeley have successfully passed laws that ban routine criminal

background checks in most housing applications, while other cities in California have done so on a smaller scale.<sup>5</sup> Additionally, a growing number of jurisdictions across the country have either passed similar laws or are in the process of passing them.<sup>6</sup> Providing access to stable housing and strengthening family support systems would reduce the likelihood that people in reentry will recidivate or return to prison while increasing the likelihood that they will invest in themselves, their families, and their communities.

**THE SOLUTION:** This bill would prohibit housing providers from screening the criminal history of rental applicants in advertisements or during the application, selection, or eviction process.

SB 460 would apply to any and all housing in the State of California, including private rental housing and publicly subsidized units including those administered by affordable housing providers and housing authorities funded by the United States Department of Housing and Urban Development.

### SUPPORT:

All of Us or None (co-sponsor)  
Just Cities (co-sponsor)  
Legal Services for Prisoners with Children (co-sponsor)  
Root & Rebound (co-sponsor)  
Western Center on Law and Poverty (co-sponsor)

### CONTACT:

Zachariah Oquenda  
Senator Aisha Wahab  
[zachariah.oquenda@sen.ca.gov](mailto:zachariah.oquenda@sen.ca.gov)

Gail Yen  
Root & Rebound  
[gyen@rootandrebond.org](mailto:gyen@rootandrebond.org)

<sup>1</sup> Californians for Safety and Justice. (May 2018). *Repairing the Road to Redemption in California*.  
[https://safeandjust.org/wp-content/uploads/CSJ\\_SecondChances-ONLINE-May14.pdf](https://safeandjust.org/wp-content/uploads/CSJ_SecondChances-ONLINE-May14.pdf)

<sup>2</sup> California Health Policy Strategies. (Nov 2018). *Criminal Justice System Involvement and Mental Illness Among Unsheltered Homeless in California*.  
<https://calhps.com/wp-content/uploads/2018/11/policy-brief-unsheltered-homelessness-11.20.2018.pdf>

<sup>3</sup> Chew, A., & Flegal, C. (2020). *Facing History, Uprooting Inequality: A Path to Housing Justice in California*. PolicyLink.  
<https://www.policylink.org/resources-tools/housing-justice-in-california>

<sup>4</sup> Couloute, L. (2018). *Nowhere to Go: Homelessness Among Formerly Incarcerated People*. Prison Policy Institute.  
<https://www.prisonpolicy.org/reports/housing.html>

<sup>5</sup> Richmond and San Francisco have versions of Fair Chance Housing ordinances.

<sup>6</sup> Portland and Seattle have local laws denying housing to those with past convictions, and New York City is on the verge of passing theirs.



Rent Stabilization Board  
Commissioner Elgstrand

DATE: March 16, 2023

To: Honorable Members of the Berkeley Rent Stabilization Board

From: Commissioner Stefan Elgstrand, Chair Leah Simon-Weisberg, Commissioner Andy Kelley

Subject: Support for SB 466 – Costa-Hawkins Reform

### RECOMMENDATION

Submit a letter in support of SB 466 (Wahab), which would reform the Costa-Hawkins Act. Send a copy of the letter to Governor Gavin Newsom, State Senators Nancy Skinner and Aisha Wahab, and Assemblymember Buffy Wicks.

### BACKGROUND

Berkeley voters approved the Berkeley Rent Stabilization Ordinance in 1980, providing rent control to most tenancies. The passage of Costa-Hawkins in 1995 significantly gutted many provisions of the original ordinance, undermining strong rent control policies by enabling vacancy decontrol and exempting new construction from rent control. In Berkeley, this means that any unit built after 1980 – the past 43 years – cannot be covered under rent control. Berkeley has recently seen a boom in new construction, with 3,742 units permitted between 2015-2021 with many more in the pipeline. The 2023-2031 RHNA cycle calls on Berkeley to build around 9,000 new units, with Berkeley's approved Housing Element having capacity for an additional 15,000 units during this timeline. As time goes on, a smaller percentage of Berkeley's housing stock will be under rent control, making it more difficult for tenants to have stable housing in Berkeley.

When Costa-Hawkins was fully implemented in 1999, the average rent for a new tenancy in a two-bedroom unit in Berkeley was \$1,300 (\$2,070 in 2021 dollars). In 2021, the average rent for a new tenancy in a two-bedroom unit was \$2,990. The total inflation between 1999-2021 is 59%, yet the increase in rent during this timeframe is 123%, an increase that is over double the rate of inflation.

The Berkeley Rent Stabilization Board has consistently been on record as supporting reforming and/or repealing Costa-Hawkins as a means of fulfilling the Rent Stabilization Ordinance's purpose of protecting tenants from unwarranted rent increases and to help maintain the diversity of the Berkeley community. In 2018, under the recommendation of the Board, the City Council placed Measure Q on the ballot, which voters passed with over 71% in favor. Part of this measure would allow for "newly constructed" units, defined as a rental unit created after June 30, 1980, to come under rent control 20 years after the completion of construction in the event that Costa-Hawkins is repealed. Initially, the Rent



Stabilization Board and 4x4 Committee suggested a rolling exemption of 12-15 years, pending additional financial analysis.

SB 466, introduced by State Senator Aisha Wahab, would amend the Costa-Hawkins Act to allow for rent control to be implemented on residential units 15 years after the issuance of a certificate of occupancy. This is in line with the Board's previous recommendations on new construction exemptions.

**CONTACT PERSON**

Commissioner Stefan Elgstrand  
RSBElgstrand@cityofberkeley.info

**Attachments:**

- 1: Letter of Support
- 2: Text of SB 466



Rent Stabilization Board

March 16, 2023

The Honorable Aisha Wahab  
California State Senate  
1021 O Street, Suite 6530  
Sacramento, CA 95814

Re: SB 466 - Support

Dear State Senator Wahab,

The Berkeley Rent Stabilization Board writes in strong support for SB 466, which would bring much needed reform to Costa-Hawkins, allowing for the expansion of rent control in new construction 15 years after its completion. As the governing board for Berkeley's Rent Stabilization and Eviction for Good Cause Ordinance, these reforms are needed to meet the Ordinance's purpose of protecting tenants from unwarranted rent increases and to help maintain the diversity of the Berkeley community.

When Costa-Hawkins was fully implemented in 1999, the average rent for a new tenancy in a two-bedroom unit in Berkeley was \$1,300 (\$2,070 in 2021 dollars). In 2021, the average rent for a new tenancy in a two-bedroom unit was \$2,990. The total inflation between 1999-2021 is 59%, yet the increase in rent during this timeframe is 123%, an increase that is over double the rate of inflation. Communities across California are facing similar situations, making the Californian dream less achievable for tenants.

With the State applying more pressure for local jurisdictions to develop additional housing, under Costa-Hawkins, all of this new construction is forever exempt from rent control. As time goes on, the percentage of rent controlled housing will decrease as a result, making it more difficult for tenants to have stable housing. Amending Costa-Hawkins to allow rent control in new construction after 15 years will provide much needed stability to tenants while allowing developers and property owners a fair rate of return.

Thank you for championing this important issue. If you or your staff have any questions or concerns, please do not hesitate to contact me or the Board's Legislative Advocate, Brian Augusta, at [baugusta@piadvocates.org](mailto:baugusta@piadvocates.org) or (916) 400-3136.

Sincerely,

The Berkeley Rent Stabilization Board

CC: Governor Gavin Newsom  
State Senator Nancy Skinner  
Assemblymember Buffy Wicks

**SENATE BILL****No. 466**

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**Introduced by Senator Wahab**February 13, 2023

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An act to amend Section 1954.52 of the Civil Code, relating to housing.

## LEGISLATIVE COUNSEL'S DIGEST

SB 466, as introduced, Wahab. Costa-Hawkins Rental Housing Act: rental rates.

Existing law, the Costa-Hawkins Rental Housing Act, prescribes statewide limits on the application of local rent control with regard to certain properties. The act generally authorizes an owner of residential real property to establish the initial rental rate for a dwelling or unit, except in specified circumstances, including, (1) when the residential real property has a certificate of occupancy issued after February 1, 1995, (2) when the residential real property has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units, and (3) when the residential real property is alienable and separate from title to any other dwelling units, except as specified.

This bill would instead authorize an owner of residential real property to establish the initial rental rate for a dwelling or unit when the residential real property has been issued a certificate of occupancy issued within the 15 years preceding the date on which the owner seeks to establish a rental rate under these provisions. The bill would also remove the above-described authorizations for an owner of residential real property to establish the initial rental rate if the residential real property (1) has already been exempt from the residential rent control pursuant to an ordinance of a public entity on or before February 1,

1995, and (2) when the residential real property is alienable and separate from title to any other dwelling units.

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

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

1 SECTION 1. Section 1954.52 of the Civil Code is amended  
2 to read:

3 1954.52. (a) Notwithstanding any other provision of law, an  
4 owner of residential real property may establish the initial and all  
5 subsequent rental rates for a dwelling or a unit about which ~~any~~  
6 *either* of the following is true:

7 (1) It has ~~been issued~~ a certificate of occupancy issued ~~after~~  
8 ~~February 1, 1995~~; *within the 15 years preceding the date on which*  
9 *the owner seeks to establish a rental rate in accordance with this*  
10 *section.*

11 ~~(2) It has already been exempt from the residential rent control~~  
12 ~~ordinance of a public entity on or before February 1, 1995, pursuant~~  
13 ~~to a local exemption for newly constructed units.~~

14 ~~(3)~~

15 ~~(2) (A) It is alienable separate from the title to any other~~  
16 ~~dwelling unit or is a subdivided interest in a subdivision, as~~  
17 ~~specified in subdivision (b), (d), or (f) (e) of Section 11004.5 of~~  
18 ~~the Business and Professions Code.~~

19 ~~(B) This paragraph does not apply to either of the following: a~~  
20 ~~dwelling or unit where the preceding tenancy has been terminated~~  
21 ~~by the owner by notice pursuant to Section 1946.1 or has been~~  
22 ~~terminated upon a change in the terms of the tenancy noticed~~  
23 ~~pursuant to Section 827.~~

24 ~~(i) A dwelling or unit where the preceding tenancy has been~~  
25 ~~terminated by the owner by notice pursuant to Section 1946.1 or~~  
26 ~~has been terminated upon a change in the terms of the tenancy~~  
27 ~~noticed pursuant to Section 827.~~

28 ~~(ii) A condominium dwelling or unit that has not been sold~~  
29 ~~separately by the subdivider to a bona fide purchaser for value.~~  
30 ~~The initial rent amount of the unit for purposes of this chapter shall~~  
31 ~~be the lawful rent in effect on May 7, 2001, unless the rent amount~~  
32 ~~is governed by a different provision of this chapter. However, if~~  
33 ~~a condominium dwelling or unit meets the criteria of paragraph~~

1 (1) or (2) of subdivision (a), or if all the dwellings or units except  
2 one have been sold separately by the subdivider to bona fide  
3 purchasers for value, and the subdivider has occupied that  
4 remaining unsold condominium dwelling or unit as his or her  
5 principal residence for at least one year after the subdivision  
6 occurred, then subparagraph (A) of paragraph (3) shall apply to  
7 that unsold condominium dwelling or unit.

8 (C) Where a dwelling or unit in which the initial or subsequent  
9 rental rates are controlled by an ordinance or charter provision in  
10 effect on January 1, 1995, the following shall apply:

11 (i) An owner of real property as described in this paragraph may  
12 establish the initial and all subsequent rental rates for all existing  
13 and new tenancies in effect on or after January 1, 1999, if the  
14 tenancy in effect on or after January 1, 1999, was created between  
15 January 1, 1996, and December 31, 1998.

16 (ii) Commencing on January 1, 1999, an owner of real property  
17 as described in this paragraph may establish the initial and all  
18 subsequent rental rates for all new tenancies if the previous tenancy  
19 was in effect on December 31, 1995.

20 (iii) The initial rental rate for a dwelling or unit as described in  
21 this paragraph in which the initial rental rate is controlled by an  
22 ordinance or charter provision in effect on January 1, 1995, may  
23 not, until January 1, 1999, exceed the amount calculated pursuant  
24 to subdivision (c) of Section 1954.53. An owner of residential real  
25 property as described in this paragraph may, until January 1, 1999,  
26 establish the initial rental rate for a dwelling or unit only where  
27 the tenant has voluntarily vacated, abandoned, or been evicted  
28 pursuant to paragraph (2) of Section 1161 of the Code of Civil  
29 Procedure.

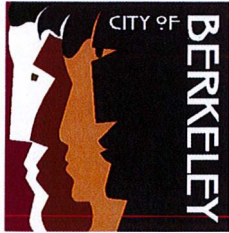
30 (b) Subdivision (a) does not apply where the owner has  
31 otherwise agreed by contract with a public entity in consideration  
32 for a direct financial contribution or any other forms of assistance  
33 specified in Chapter 4.3 (commencing with Section 65915) of  
34 Division 1 of Title 7 of the Government Code.

35 (c) Nothing in this section shall be construed to affect the  
36 authority of a public entity that may otherwise exist to regulate or  
37 monitor the basis for eviction.

38 (d) This section does not apply to any dwelling or unit that  
39 contains serious health, safety, fire, or building code violations,  
40 excluding those caused by disasters for which a citation has been

- 1 issued by the appropriate governmental agency and which has
- 2 remained unabated for six months or longer preceding the vacancy.

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Rent Stabilization Board

DATE: March 16, 2023

TO: Honorable Members of the Berkeley Rent Stabilization Board

FROM: Matt Brown, General Counsel <sup>MB</sup>  
Oliver Ehlinger, Staff Attorney

SUBJECT: Limited Post-Emergency Options for Remote Participation in Board and Committee Meetings.

## **BACKGROUND**

The Brown Act requires that meetings of a local legislative body be open and accessible to the public. Prior to the COVID-19 Pandemic, the default meeting format for the Board and its committees was in-person. The Board and its committees' ability to meet remotely as it had from March 2020 through February 2023 was based on authority only available during the State of Emergency as declared by the Governor. Therefore, the City Council's February 28, 2023 vote to extend the local emergency will not allow the Board to continue to meet remotely in the same manner.

The Governor lifted the State of Emergency on February 28, 2023, so the Board is no longer able to meet solely by teleconference. Nevertheless, the Brown Act allows for more limited remote participation in two ways. The first method requires Commissioners to publicize and make their teleconference locations open to the public. The second method is the result of recent amendments to the law. It allows for commissioners to participate remotely due to unanticipated emergency situations. This method requires a quorum of the Board or committee to be physically present in a meeting location, but does not require a commissioner to provide notice prior to requesting to participate remotely. Therefore, use of the second method may run the risk of forcing the Board or its committees to cancel meetings if commissioners do not coordinate their remote participation. This memo addresses these two methods in more detail.

## **PRE-COVID OPTION FOR ANTICIPATED REMOTE PARTICIPATION**

Commissioners may still use the original, pre-pandemic Brown Act rules to participate remotely. Under these rules, there are four primary requirements:

- 1) The Board or committee must list the address of the remote location on the agenda;
- 2) Any commissioner participating remotely must post the agenda at their remote location;
- 3) Any commissioner participating remotely must make their remote location accessible to members of the public; and
- 4) At least a quorum of the Board or committee must be participating from within Berkeley city limits.

Teleconferencing under these rules is allowed for an unlimited duration and number of meetings with no additional requirements. However, because the Brown Act requires the Board and its committees post agendas 72 hours in advance, commissioners must provide staff advance notice of their intention to appear remotely using this option.

### **NEW OPTION FOR UNANTICIPATED REMOTE PARTICIPATION**

Newly adopted amendments to the Brown Act allow for remote participation in a limited number of meetings by commissioners without listing the remote location address on the agenda and making the remote location open to the public due to either “just cause” or “emergency circumstances.”

#### **Just Cause Provision<sup>1</sup>**

Under the “just cause” provisions, a member can participate remotely after giving notice to the Board or committee as soon as possible. The Brown Act defines “just cause” as the following:

- 1) A family childcare or caregiving need;
- 2) A contagious illness;
- 3) A need related to a disability that is not otherwise accommodated; or
- 4) Travel while on official Board business.

Use of the “just cause” exception is limited to two meetings per calendar year.

#### **Emergency Circumstances Provision<sup>2</sup>**

Under the “emergency circumstances” provisions, commissioners can participate remotely by requesting approval to do so from the Board or committee. The Board or committee may act on the request as soon as possible, including at the beginning of the meeting, even if there was not sufficient time to place the request formally on the agenda. The Brown Act defines “emergency circumstances” as a physical or family emergency that prevents the commissioner from attending in person. A commissioner may only attend remotely due to “emergency circumstances” for

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<sup>1</sup> California Government Code Section 54953(f)(2)(A)(i)

<sup>2</sup> California Government Code Section 54953(f)(2)(A)(ii)



three consecutive months or no more than 20% of the Board's regular meetings in a year. For the Board and its committees, this will be a maximum of two meetings.

**Requirements for Participating Remotely for Just Cause or Emergency Circumstances**

Commissioners may appear remotely for just cause or emergency circumstances if the following conditions are met:

- 1) At least a quorum of the Board or committee participates in-person at a single physical location that is identified on the agenda, open to the public, and meets accessibility requirements; and
- 2) The Commissioner who is participating remotely must publicly disclose, at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the commissioner's remote location, and the general nature of the commissioner's relationship with such individuals; and
- 3) The Commissioner in question must give a general description of the circumstances relating to their need to appear remotely, but need not disclose any medical diagnosis, disability, or other confidential medical information; and
- 4) The Board or committee must approve the request to participate remotely for "emergency circumstances"; and
- 5) The Commissioner must participate through both audio and visual technology; and
- 6) The Board must provide a remote platform for the public to view and participate in the meeting and provide notice of the platform in the agenda of the meeting.

As noted above, a commissioner may inform the Board or committee of their intent to attend a meeting remotely at the meeting itself. However, this method of remote participation requires a quorum of the commissioners to be physically present at a central meeting location. If commissioners request to appear remotely without notice, there may not be sufficient commissioners at the physical meeting location to allow the meeting to proceed. For instance, the Board's committees are comprised of four commissioners each; only one commissioner at a time may appear remotely under these new provisions.

Additionally, this method requires the Board to provide a platform for the public to attend the meeting remotely whenever a commissioner does so and to publicize the remote access link in its agendas. Because the Brown Act requires the Board and its committees post agendas 72 hours in advance and staff may not know at the time the agenda is due whether a commissioner will request to appear remotely, the Board must always maintain and publicize remote access for the public.

**PRACTICAL APPLICATION**

The following table illustrates the requirements of each method of remote participation.

<p>Pre-COVID (Anticipated Remote Attendance)</p>	<ul style="list-style-type: none"> <li>-Board must put commissioners’ remote locations in the meeting agenda.</li> <li>-Commissioners must post agendas at their remote locations.</li> <li>-Commissioners must make their remote locations accessible to the public.</li> <li>-Quorum of the Board or committee must be present within Berkeley city limits.</li> <li>-No limit on the number of times a commissioner may appear remotely in this manner.</li> </ul>
<p>Just Cause <i>or</i> Emergency Circumstances (Unanticipated Remote Attendance)</p>	<ul style="list-style-type: none"> <li>-Commissioner must give notice of intent to appear remotely as soon as possible.</li> <li>- Commissioner must disclose the presence of individuals over 18 years old that are at the Commissioner’s remote location.</li> <li>-Commissioner must provide short description of their need to appear remotely.</li> <li>-Quorum of Board or committee must be in physical meeting location.</li> <li>-Board or committee must approve commissioner’s request to appear remotely (for Emergency Circumstances only).</li> <li>-Commissioners may only use Just Cause or Emergency Circumstances provision two times a year (either category counts towards the total).</li> </ul>

The following examples illustrate some practical applications of the current remote participation options:

**Example 1:** In July, five commissioners attend the regular Board meeting remotely; the remaining four commissioners attend at the physical meeting location. All five remote commissioners provide the address of their remote locations and allow public access to these locations. Four of the five remote commissioners are outside of Berkeley; while one is in Berkeley.

This meeting complies with the Brown Act using the Pre-COVID rules because all remote participants provided their remote addresses and a quorum of the commissioners are participating from within the Berkeley city limits.

**Example 2:** In July, four commissioners provide notice of their intent to appear remotely. These commissioners provide their remote location addresses and allow public access to the remote location. At least one of the remote locations is within Berkeley city limits. On the day of the meeting, four commissioners are in the physical meeting location, and four are appearing remotely from their noticed and accessible remote locations. The final commissioner decides to appear remotely on the day of the meeting; their remote location is not on the meeting agenda

The final commissioner may not attend this meeting remotely. In order to have any commissioners appear using the just cause or emergency circumstances provisions, the Board must have a quorum of the commissioners at the physical meeting location. Because there are only four commissioners at the physical meeting location, only those commissioners who noticed their remote locations in advance may attend remotely. The Board may use the Pre-COVID remote meeting option because, between the commissioners that are physically present and at least one commissioner appearing remotely, the Board has a quorum within Berkeley city limits.

**Example 3:** A committee of four commissioners intends to meet in-person. On the day of the meeting, one committee commissioner comes down with a contagious illness and requests to attend remotely. This committee commissioner has appeared remotely once before in the calendar year when their child was ill. The other three committee commissioners are present at the physical meeting location.

This meeting complies with the Brown Act. The committee commissioner appearing remotely has appropriately used a just cause reason, and a quorum of the committee is at the physical meeting location.

**Example 4:** A Board commissioner has appeared remotely due to emergency circumstances for the past two regular Board meetings. The Board commissioner provides staff with their remote address and allows the public to access their remote location for the next regular Board meeting. This commissioner's remote participation would be permitted because there is not a limit on the number of times a commissioner may appear remotely using the Pre-COVID rules.

**NAME AND TELEPHONE NUMBER OF CONTACT PERSON**

Matt Brown, General Counsel

510-981-4930



Rent Stabilization Board

## MEMORANDUM

**DATE:** March 8, 2023

**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 (January 2020 – December 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.<sup>1</sup> 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.)

<sup>1</sup>Under 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.<sup>2</sup>
- 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.<sup>3</sup>
- 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.)

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<sup>2</sup>The current standard relocation assistance amount is \$18,011, 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.

<sup>3</sup> The current additional relocation assistance amount is \$6,003, which may also be adjusted each year as described above.

## **OMI REPORT: January 1, 2020 – December 31, 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 typically send a letter to select units 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 January 1, 2020 and December 31, 2022, two OMI eviction notices were filed on the same unit at a fourplex property, both of which were rescinded.

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

Both notices were for owner-move-in (versus qualifying relative) evictions.

#### **Relocation Assistance**

The only two OMI notices filed during the current reporting period were rescinded, so no

relocation money was distributed.

<b>Claims for Additional Relocation Payment</b>	
<b>Grounds</b>	<b>Number of Claims</b>
Minor Child	0
Disabled	0
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 – There were no OMI notices served on duplexes during the current reporting period.

Triplexes – There were no OMI notices served on triplex properties during the current 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.<sup>4</sup>

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

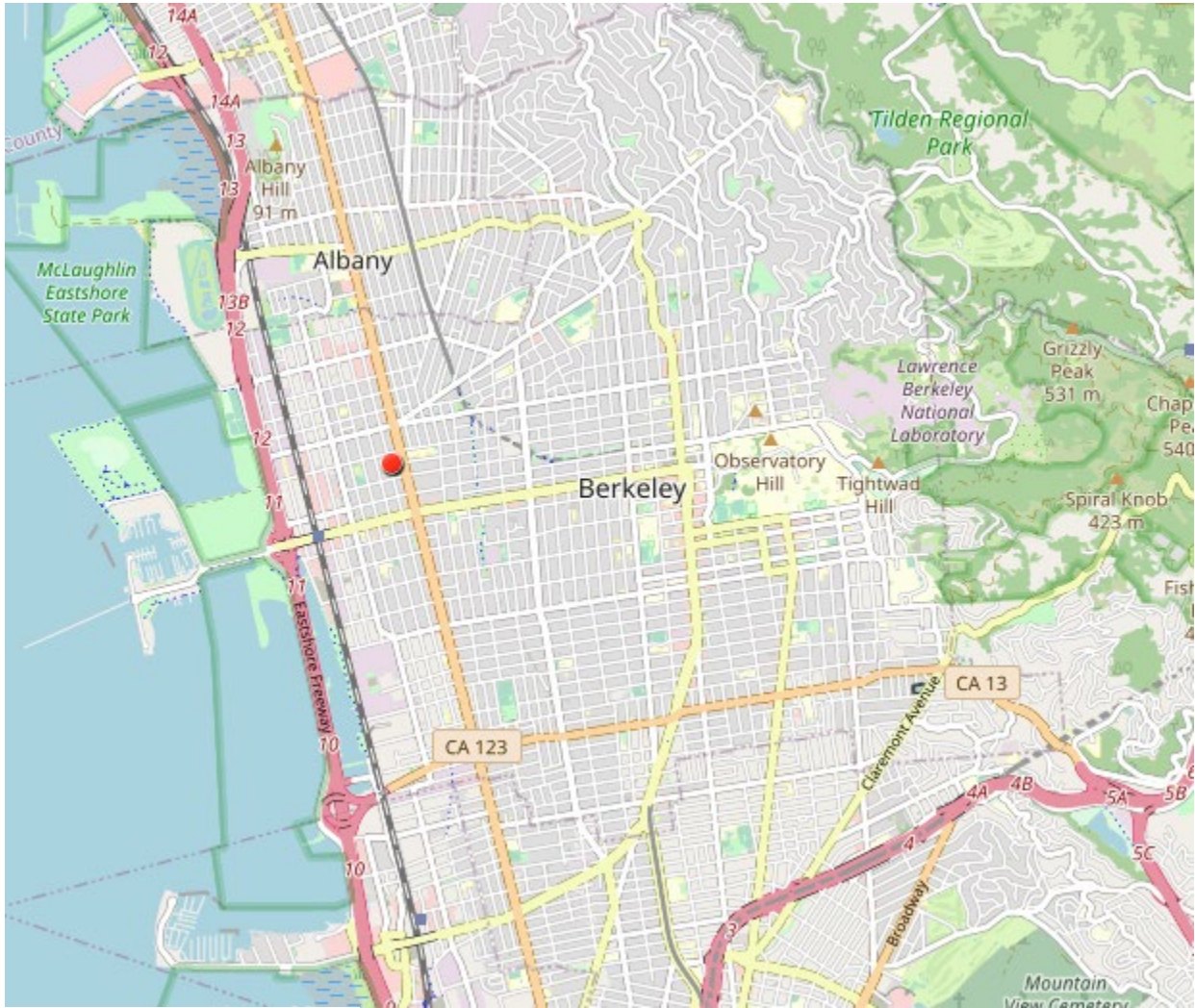
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<sup>4</sup> When the data includes title transfers, we used the time between the transfer date and the notice of eviction.

## LOCATION OF OMI PROPERTIES

### **General Distribution**

The map below shows the general distribution of OMI notices for the current reporting period. Note: Both notices were served on the same address, so there is one data point rather than two.



#### **OMI Notices Location Map**

January 2020 – December 2022

● Owner 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

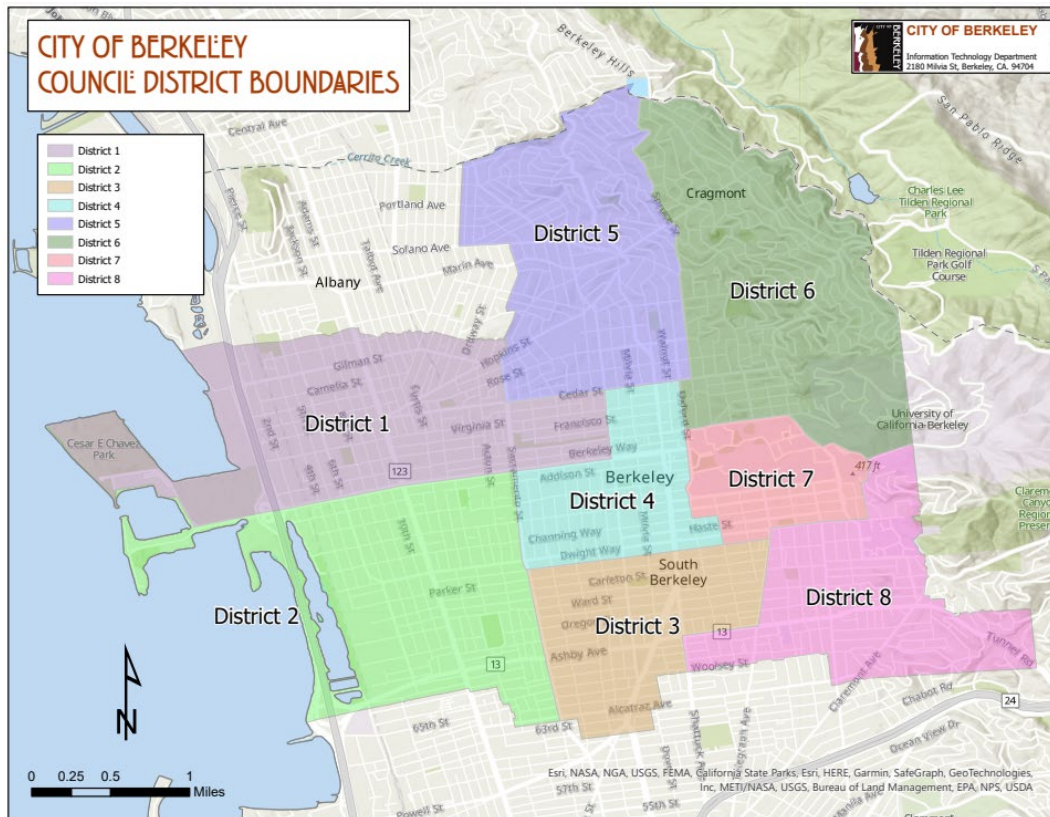
City of Berkeley Census Tract Map & Market Areas



### 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	0	0
7	0	0
8	0	0



## CONCLUSION

During this reporting period (January 1, 2020 – December 31, 2022), the Board received a total of two 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. 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.

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**Attachment 1:** Sample of letter sent to select rental units that received an OMI eviction notice for the period of July 2019 – June 2022. For the current period of January 2020 – December 2022, two notices were filed on the same unit and were rescinded. Rent Board data indicates that the unit is still occupied by the tenant who received the notices, so a letter was not sent.

**Attachment 2:** Table reflecting geographic location and market area of properties subject to OMI notices for the period of January 2020 – December 2022.

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

## ATTACHMENT 1

### Sample of Letter Typically Sent to Select Units that Received OMI Notices



Rent Stabilization Board

September 6, 2022

Current Occupant/

Berkeley, CA, 94708

**RE: Owner Move-in eviction at**

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](http://rentboard.berkeleyca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Ollie Ehlinger". The signature is fluid and cursive, with a large initial "O" and "E".

Ollie Ehlinger  
Staff Attorney

## **ATTACHMENT 2**

### **Geographic Location and Market Area of Properties Subject to OMI Notices**

<b>Date filed</b>	<b>Street</b>	<b>Market Area</b>
8/17/2021	1725 10 <sup>th</sup> St.	West Berkeley (Area 4)
10/8/2021	1725 10 <sup>th</sup> St.	West Berkeley (Area 4)

**ATTACHMENT 3**

**OMI Eviction Notices Filed With Berkeley Rent Board**

<b>Date of Eviction Notice</b>	<b>Number of Notices Received</b>
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
July – December 2022*	0
<b>Total Notices Filed</b>	<b>403</b>

\* 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 (December 31, 2022), the moratorium remained in place.

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



**RENT STABILIZATION BOARD**  
**BUDGET & PERSONNEL COMMITTEE MEETING**

**Wednesday, February 22, 2023**

**3:30 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/84815244220?pwd=Zi9HTXZqMHIaXGdMQ1htR1hOWIB1Zz09>. 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 and enter Webinar ID: 848 1524 4220 and Passcode: 879524. 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](mailto: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 1:30 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**

**Wednesday, February 22, 2023 – 3:30 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 February 9, 2022, meeting minutes (attached to agenda)
6. Rent Board File Scanning Project Update (verbal report only)
7. Discussion and Possible Action on the Process to Adopt the Fiscal Year 2023/24 Registration Fee for Fully Covered and Measure MM units (staff presentation)
8. Office Relocation Process Update (verbal report only)
9. Future agenda items
10. Discussion and possible action to set the next meeting
11. Adjournment

**STAFF CONTACT: DéSeana Williams, Executive Director (510) 981-7368**  
COMMITTEE: Soli Alpert, Nathan Mizell, Leah Simon-Weisberg, Dominique Walker (Chair)



Rent Stabilization Board

**RENT STABILIZATION BOARD**  
**EVICTION / SECTION 8 / FORECLOSURE COMMITTEE MEETING**

**Wednesday, March 8, 2023**

**6:00 p.m.**

**Rent Stabilization Board Law Library – 2001 Center Street, 2<sup>nd</sup> floor, Berkeley, CA 94704**

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION.**

For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

**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/88089732256?pwd=SWhGNIBLNGExdEdtNzZ6aDdOcFISZz09>. 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: 880 8973 2256 and Passcode: 549057. 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 for the Committee's consideration and inclusion in the public record, email [oeHLinger@cityofberkeley.info](mailto: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 4:00 p.m. on the day of the Committee meeting in order to be included.**

Please be mindful that this will be a public meeting and all rules of procedure and decorum apply for both in-person attendees and those participating 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**

**Wednesday, March 8, 2023 – 6:00 p.m.**

**Rent Stabilization Board Law Library – 2001 Center Street, 2<sup>nd</sup> floor, Berkeley, CA 94704**

**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 October 27, 2022 meeting (attached to Agenda)
5. Election of Chair
6. Public Comment
7. Discussion and possible action regarding Measure AA Owner Move-in Eviction Report (See attached staff report)
8. Discussion regarding amendments to Berkeley Municipal Code section 13.110
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:** Stefan Elgstrand, Xavier Johnson, Ida Martinac, Nathan Mizell



Rent Stabilization Board

**RENT STABILIZATION BOARD  
OUTREACH COMMITTEE MEETING**

**Thursday, March 9, 2023**

**5:30 p.m.**

**Rent Stabilization Board Law Library – 2001 Center Street, 2<sup>nd</sup> floor, Berkeley, CA 94704**

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION.**

For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

**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/86537569989?pwd=d08zWG5xR04wQkIvZlJPazZWUGhrQT09>. 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: 865 3756 9989 and Passcode: 282581. 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 for the Committee's consideration and inclusion in the public record, email [ndahl@cityofberkeley.info](mailto:ndahl@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 in order to be included.**

Please be mindful that this will be a public meeting and all rules of procedure and decorum apply for both in-person attendees and those participating 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 OUTREACH COMMITTEE MEETING**

**Thursday, March 9, 2023 – 5:30 p.m.**

**Rent Stabilization Board Law Library – 2001 Center Street, 2<sup>nd</sup> floor, Berkeley, CA 94704**

### **AGENDA**

1. Roll call (1 min)
2. Land Acknowledgment Statement: *The Berkeley Rent Stabilization Board recognizes that the rental housing units we regulate are built on the territory of xučyun (Huchiun-(Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors, and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's landlords and tenants have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878 and since the Rent Stabilization Board's creation in 1980. As stewards of the laws regulating rental housing, it is not only vital that we recognize the history of this land but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.*
3. Approval of the Agenda (2 min)
4. Approval of the Minutes of the February 15, 2023 Meeting (5 min)
5. Public Comment (5 min)
6. Outreach Efforts Related to Transition and End of Eviction Moratorium (10 min)
7. Update on Fair Chance Ordinance Outreach (10 min)
8. Update on Tenant Survey Progress (10 min)
9. Update on Rent Board Outreach Activities and Metrics Tracking. (10 min)
10. Next Meeting Scheduled for Thursday, April 13, 2023 (2 min)
11. Adjournment (2 min)

**STAFF CONTACT: Nathan Dahl, Public Information Unit Manager (510) 981-4935**

COMMITTEE: Soli Alpert (Chair), Stefan Elgstrand, Andy Kelley, Vanessa Marrero