

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE MM

This measure was placed on the ballot by the City Council.

This measure would amend the City's Rent Stabilization and Eviction for Good Cause Ordinance in three ways.

1. Emergency Eviction Limitations

The measure would prohibit the eviction of a residential tenant for nonpayment of rent when a state or local emergency has been declared and emergency legislation has been enacted to authorize the tenant to withhold rent. The City of Berkeley has adopted an "eviction moratorium" in response to the COVID-19 pandemic. The measure would provide that the moratorium and any future legislation authorizing the withholding of rent during an emergency would create an exception to the existing rule that eviction proceedings for nonpayment of rent may commence following three-days' notice to the tenant.

2. Registration and Fees for Partially Exempt Units

The measure would authorize the Rent Stabilization Board to collect information from the owners of rented single-family homes, rented condominiums, and newly constructed rental units, and to set and charge a registration fee for those units. These units are exempt from the rent control provisions of the Rent Stabilization and Eviction for Good Cause Ordinance, but not from the Ordinance's good cause requirement for eviction. The fee set by the Rent Stabilization Board would cover the cost of registration and counseling services but would not include the cost of services from which such units are exempt, such as rent adjustment petitions and hearings.

The new registration requirements and fee would not apply where a property owner rents out their own home on a temporary basis, provided that the owner does not own any other rental units in the City, the owner's absence from the unit does not exceed 24 months, and the length of the owner's absence is specified in the lease.

3. Accessory Dwelling Unit Exemption

The measure would clarify the existing exemption for Accessory Dwelling Units (ADUs) to address a change in state law. Under City law, ADUs are exempt from rent control and eviction limitations. At the time this exemption was adopted by City voters in 2018, it was not lawful to construct an ADU on a multi-unit property. A recent change in state law now permits the construction of ADUs on multi-unit properties. The measure would limit the City's ADU exemption to owner-occupied properties that contain only a single-family home and no more than one ADU. The measure would not constrain the right of a property owner to construct additional ADUs as permitted by law, but would limit the applicability of the exemption from the City's Rent Stabilization and Eviction for Good Cause Ordinance.

The above statement is an impartial analysis of Measure MM.

s/FARIMAH FAIZ BROWN
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