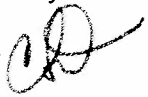


Office of the City Manager

March 23, 2012

To: Honorable Mayor and Members of the City Council
From: Christine Daniel, Interim City Manager 
Subject: Berkeley Housing Authority

The attached memorandum is provided by the Berkeley Housing Authority in response to questions that were referred by the City Council at the February 28th Council meeting.

Attachment

cc: William Rogers, Interim Deputy City Manager
Mark Numainville, Acting City Clerk
Ann-Marie Hogan, City Auditor
Mary Kay Clunies-Ross, Public Information Officer
Tia Ingram, Berkeley Housing Authority



Berkeley Housing Authority

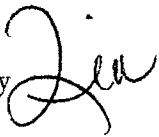
1901 Fairview St., Berkeley, CA 94703
Telephone: (510) 981 5470 Fax: (510) 981 5480

Office of the Executive Director

MEMORANDUM

March 21, 2012

To: Christine Daniel, Interim Berkeley City Manager

From: Tia M. Ingram, Executive Director, Berkeley Housing Authority 

Subj: Procedure for Adjustments to Contract Rent/Assisted Tenancies

cc: Carole Norris, Chair, Berkeley Housing Authority Board
Jay Kelekian, Executive Director, Rent Stabilization Program

This memorandum is prepared in response to your February 29 email sharing the Berkeley City Council's request for information on how rent increases are requested, evaluated and approved for Section 8 (S8) assisted tenancies.

Contract Rent

The Section 8 program is designed to allow owners to receive a fair rent for units, without artificially inflating the market. The process begins with the owner completing a Unit Characteristic form – describing the unit and its amenities, specifying the rent requested, and providing rent comps (Attachment 1). “Reasonable” is defined as *the rent being paid for comparable units without S8 assistance*. In HUD-speak, the identification of comparable units (“comps”) is defined as the rent reasonableness test. BHA is required to perform a rent reasonableness determination (1) prior to entering a new Housing Assistance Payment (HAP) Contract; (2) 60-days before the contract anniversary if the Fair Market Rent (FMR) has decreased by 5% or more, and (3) prior to approving any increase in contract rent. This process results in a valuation of the unit, without regard to the income, voucher size, or subsidy level of the anticipated household.

Rent Negotiation

When negotiating the contract rent with a landlord, BHA's goal is to approve the maximum rent supported by the comps, without reducing the benefit of the allowance the family is entitled to for tenant paid utilities. Consider a 1-bedroom unit valued at \$1,235 per month, and a utility allowance of \$45 (for tenant paid utilities): the ideal maximum contract rent for the 1-bedroom unit is \$1,190 (\$1,235 - \$45). In this scenario, the family's total rent payment (amount to landlord plus allowance for utilities) equals 30% of adjusted monthly income. If the owner insists on any amount above \$1,190 for the contract, every dollar serves to reduce the benefit of the utility allowance provided the family.

Rent Increase

An owner may request a rent increase every 12-months. There are no limits on the % increase allowed, but again, the rent approved must satisfy the “rent reasonableness” test. When BHA considers the request it is possible that the rent will be increased, left unchanged, or even possibly reduced – as supported by then-current rent comps. If the amount requested is not within the Payment Standard, we encourage the owner to modify (lower) the request. In this scenario, landlords retain the exemption from registration and payment of fees to the Rent Stabilization Program. Ultimately, the decision as

to the market value of the unit is made without regard to the income or eligibility of the family occupying the unit, and in fact the rent reasonableness numbers are factored via a database for which we pay an annual fee, through Nan McKay's (a highly regarded consultant in HUD's programs) *Go Section 8* software.

NOTE: Units rented with S8 assistance are exempt from the Annual Adjustment Factor provision of the Rent Control Ordinance, as long as the owner does not raise the rent above the applicable Payment Standard and the family is not required to pay more than 30% of income for rent. As it now reads, the Rent Control Ordinance defines "rent" as rent to the owner – and does not factor in the S8 utility allowance. We have engaged in preliminary discussions with Rent Board staff around this issue, and will continue exploring options for closing this potential loophole.

Financial Impact on Assisted Household

Assisted households are required to pay a minimum of 30% of adjusted monthly income for "rent." We experience the largest number of complaints of excessive tenant rent when the family is paying 30% or more to the landlord, and not receiving the benefit of the utility allowance. This happens most frequently in the following situations:

- a) A family is over-housed. These are situations where, for example, a family qualifies for one-bedroom assistance, but is occupying a two-bedroom unit. In such a case, the owner is entitled to receive a fair rent for the two-bedroom unit; the maximum rental subsidy BHA can pay is based on the one-bedroom voucher; and the family is left to pay more than 30% of income for rent, per their choice – they are offered a voucher to move to an appropriate-sized unit but often prefer to remain in place (this happens frequently as parents become empty nesters, and don't want to move to a smaller unit); or
- b) The contract rent equals Payment Standard. At the initial contract signing, BHA is reasonably successful in having the owner agree to "market rent" less the applicable utility allowance – so the family's total rent payment (rent to landlord plus utility allowance) equals 30% of adjusted monthly income. Most problems occur at the first contract anniversary when the owner requests to increase the contract rent to the full market value. In that event the family pays 30% of adjusted rent to the owner, and forfeits the utility allowance. Thus, without any change (increase) in income, or property value, the family bears a rent increase of \$45. Again, in this case the family is advised to try to negotiate a lesser rent with the owner, or accept a transfer voucher and move to a less expensive unit.

Conclusion

There is increased demand for rental housing, and enhanced competition for rental units as a result of the current economic crisis. We continue to strive to enhance our S8 program offering by (a) encouraging greater participation in the S8 program by existing and new landlords, and (b) maintaining a reasonable Payment Standard to ensure the maximum number of households can be assisted.

Attachment: Unit Characteristics Form

