

BERKELEY RENTAL NEWS

Newsletter of the Berkeley Rent Stabilization Board

New State Laws about Security Deposits and Eviction Notices

New Security Deposit Law

AB 2330 (Migden), amends Civil Code 1950.5, the security deposit statute, to provide a number of changes effective January 1, 2003, including:

1) Use of Deposit for Cleaning

For tenancies beginning on or after 1/1/03, the security deposit may be used for cleaning the premises upon termination of the tenancy "necessary to return the unit to the same level of cleanliness it was in at the inception of the tenancy."



2) Walk-through Inspection

At the tenant's request, the landlord or his/her agent must conduct an initial inspection of the premises prior to any final, post-move-out inspection, to allow the tenant an opportunity to remedy identified deficiencies and avoid deductions from the deposit. Within a reasonable time after a notice of either party's intent to terminate the tenancy is given, the landlord must give the tenant written notice of the tenant's right to request and be present at the initial inspection. If requested, the parties must attempt to schedule the inspection at a mutually agreeable date and time, no earlier than two weeks before the tenancy's termination. The landlord must give at least 48 hours prior written notice of the date and time of the inspection, either if mutually agreed upon, or if no mutually agreeable time can be found but the tenant still wishes an inspection; the 48 hours prior notice may be disregarded if both parties sign a written waiver. Unless the tenant previously withdrew his request, the landlord must proceed with the inspection whether or not the tenant is present.

3) Itemization

Based on the inspection, the landlord must give the tenant, if present, or leave in the unit, an itemized statement specifying repairs or cleaning that are proposed to be the basis of any deductions from the security deposit. The statement must include the text of subdivisions (d) and (b) (1)-(4) of Civil Code Section 1950.5. The tenant then has the opportunity during the period following the initial inspection until the termination of the tenancy to remedy the identified deficiencies.

4) Deductions

A landlord may use the deposit for any itemized deficiencies that the tenant did not cure, as long as those deductions are authorized by this section, and for any authorized purpose that occurs between the initial inspection and the termination of the tenancy or that was not identified during the inspection because of the presence of a tenant's possessions.



5) Damages

The amount of statutory damages that may be awarded a tenant for a landlord's bad faith claim or retention of all or part of a security deposit is increased to twice the amount of the deposit.



Other Tenants Rights

SB 1403 (Kuehl) is a general tenants' rights bill that contains the following significant provisions:

1) 60-Day Notice Required for some Evictions

Instead of 30 days notice, a landlord must give 60 days notice to terminate a tenancy unless:

- a) the tenant has resided in the unit for less than a year or
- b) the unit is a single family home or condo that a new owner intends to reside in and the escrow was established no more than 120 days before the termination notice.

In Berkeley, a landlord must still have good cause to evict a tenant.

2) 24-hour Written Notice of Landlord Entry

Except in an emergency, a landlord must give a tenant reasonable notice, **in writing**, that the landlord intends to enter the rental unit. The notice may be delivered in person, left with a responsible person at the premises, left at the usual entry door of the premises, or mailed to the tenant. Twenty-four hours notice is presumed reasonable for delivered or posted notices; if mailed, five days is presumed reasonable delivery times, so landlords should mail the notice six days in advance. If the purpose of entry is to show the premises to a prospective buyer, the 24-hour notice may be oral if the landlord has, within the prior 120 days, given the tenant written notice that the property is for sale and that he or she may be contacted to show the unit. At the time of entry, the landlord or agent must leave written evidence of the entry inside the unit.

3) Ellis Act Amended

A landlord who files a Notice of Intent to Withdraw a rental unit, pursuant to the Ellis Act (Gov. Code 7060.2), cannot set an initial rent for that unit for five years after the date that the notice is filed, even if it is later rescinded; the prior rent ceiling and AGA's will apply to any new tenancy within five years.

La Oficina De Control De Rentas

Si usted quiere esta información en español, favor de llamar y preguntar por Carlos Rios, 644-6128 ext. 121, o Dahl Shannon, 644-6128 ext. 124.

Deposit Interest Overdue

Berkeley law requires landlords to place security deposit monies in an interest-bearing account for the benefit of the tenants, and to return the actual interest earned on that account each year in December. If the interest due is not paid to the tenants by January 10th, Board Regulation 704 allows tenants to deduct interest, calculated at 10%, from a rent payment after they give the landlord two weeks' written notice.

4 Steps Tenants Should Take When Repairs Are Needed

1. Request the Repair in Writing

If you make the request verbally, follow up with a letter and keep a copy.



2. Document the Problem

Take photos of or videotape the problem, or call the Rent Stabilization Board to videotape it. If you file a petition with our office, you'll need to show that there was (or still is) actually a problem.

3. Request a Housing Inspection

For structural or weather-proofing problems that you suspect may violate the housing code, call for a housing inspection: 981-5444. The housing department will issue a report that will also serve as evidence of the problem(s).

4. Petition the Rent Board

File a petition for a possible rent reduction if you cannot work out a solution with the landlord.

Rent Board Welcomes New Director and Board Members

Last October the Rent Board hired **Jay Kelekian** as the new Executive Director. Kelekian has 19 years of analytical and managerial experience in the City of Berkeley. In addition to a prior stint with the Rent Board, he served as the Secretary to the Parks and Recreation Commission and the Waterfront Commission.

The Board and staff wish to thank retiring Executive Director **Marjorie Gelb** for her seven years with the Rent Stabilization Board --as Chief Counsel and then Executive Director—and her nearly twenty years in public service with the City.



Board and staff also thank outgoing Commissioners **Stefanie Bernay, Marc Janowitz, Sharon Maldonado, and Larry Harris** for their dedicated service.

Commissioners **Max Anderson, Judy Ann Alberti, Paul Hogarth, Matthew Siegel and Selma Spector** welcome the new members elected last November:

Howard Chong, a recent Cal graduate, has been active in affordable housing issues;

Robert Evans has been a tenant lawyer and tenant activist for over 30 years;

Berkeley native **Chris Kavanagh** has served on the Housing Advisory Commission for several years;

Pinkie Payne has been a Berkeley Housing Authority Board Member for 10 years.

Rent Board Sponsors Tenants' Rights Poetry Slam

Where: The Starry Plough, 3101 Shattuck Ave.

When: Wednesday, February 26th, 7:30 pm (to perform or to get a seat; slam starts at 8:30). Admission: \$7 (\$5 with student ID).

Who: Everyone welcome.

Why: Promote awareness of current housing issues and Bay Area housing needs. \$100, \$75, and \$50 prizes will be awarded for best poems about housing issues.

More info is available www.daniland.com/slam.

Workshops and Speakers

The Rent Board is offering workshops for tenants and landlords who are considering filing petitions, every Wednesday evening in February at 6 pm at 2125 Milvia St. Rent Board staff are also available for special workshops or presentations. If you represent a group and would like to request a presentation, please call 644-6128.

Notices of Apparent Lawful Rent Ceilings will be mailed to all Tenants and Landlords in February.

Rent Stabilization Board

The Rent Board's website allows you to check your unit's rent ceiling on-line and download forms and petitions. Visit us at www.ci.berkeley.ca.us/rent

2125 Milvia Street Berkeley, CA 94704

(510) 644-6128 phone

(510) 644-7723 fax

E-mail: rent@ci.berkeley.ca.us

Office Hours:

Mon.-Fri., 9:00 a.m. - 4:45 p.m.,

Except Wed. 12:00 noon – 6:30 p.m.



Other Important Phone Numbers

City of Berkeley Information 981-CITY (2489)

Fire Prevention981-5585

Garbage Collection.....981-6350

Environmental Health Dept.....981-5310

Housing Inspections.....981-5445

Property Records.....981-7200

Alameda County Bar Assn. (includes lawyer referral service and small claims advisors).....893-7160

ASUC Renters Legal Assistance.....642-1755

Berkeley Dispute Resolution Service.....548-2377

Berkeley Property Owners Association.....525-3666

Dept. of Consumer Affairs.....800-344-9940

East Bay Community Law Center548-4040

Eviction Defense Center.....452-4541

Housing Rights, Inc.....548-8776

Law Center for Families.....451-9261

Lawyers in the Library

Claremont.....981-6280

North Berkeley981-6250

South Berkeley981-6260

West Berkeley.....981-6270

Legal Assistance for Seniors.....832-3040

Sentinel Fair Housing.....836-2687

