

BERKELEY RENTAL NEWS

Newsletter of the Berkeley Rent Stabilization Board

NEW STATE LAWS REINFORCE TENANTS' RIGHTS

LIMITS ON LANDLORDS WITH SERIOUS CODE VIOLATIONS

Current Berkeley law blocks most evictions and rent increases for the small number of units in Berkeley where the landlord has failed to provide habitable conditions. The state legislature has strengthened this policy and extended it statewide. Recently amended state law (Civil Code 1942.4) now provides that a landlord may not demand rent, increase rent or issue a three-day notice to pay or quit if **all** of the following are true:

1. The unit has **serious code violations that breach habitability standards**; and
2. The City has cited the violations; and
3. The violations are not repaired within **35 days** of the citation; and
4. The tenant did not cause the code violations or block their correction.

Additionally, a landlord who violates this law is liable to the tenant for the **actual damages** sustained by the tenant **and special damages** of not less than \$100 and not more than \$5,000.



Tenants should pay full rent until a decision is issued.

This new law still requires the tenant to take proper steps first. A tenant with habitability problems should still 1) report the problems in writing to the landlord, 2) allow the landlord a reasonable amount of time to do the repairs, 3) if necessary, arrange a City of Berkeley Housing inspection and 4) if citations are issued and the issues are not resolved, file a Rent Stabilization Board petition for a rent ceiling reduction.

Although the new law provides a possible defense against eviction for non-payment, RSB staff always recommend that tenants continue to pay the full rent demanded and use the petition process to seek a retroactive rent reduction.

Tenants with habitability problems have two additional remedies: small claims court action and 'repair and deduct.' Detailed information on the Repair and Deduct remedy in state law is available on our web site and by calling our counseling staff.

HARASSMENT PROTECTIONS

A new state law strengthening harassment protections is especially relevant in rent-controlled cities such as Berkeley where landlords may be motivated to seek a premature termination of a tenancy.

Civil Code 1940.2 provides "that a tenant is entitled to a civil



penalty of not more than \$2,000 for each act of a landlord, made for the purpose of

influencing a tenant to vacate a dwelling" by "the use, or threatened use, of force, threats, or menacing conduct constituting a conduct that interferes with the tenant's right to quiet enjoyment of the premises that would create an apprehension of harm in a reasonable person."

While most property owners comply with the law, tenants complain regularly of feeling pressured to move out when landlords engage in the following: 1) systematic noise and disruption, 2) improper entry into a unit or other invasion of privacy, 3) aggressive and intimidating behaviors by the landlord, the landlord's agents or other tenants, 4) unreasonable changes in housing services and 5) threats to ruin a tenant's credit rating.

Additionally, local rent control and the Costa-Hawkins Rental Housing Act already block an increase in rent for the next tenancy if the current tenants are pressured out of the unit or if terms are significantly changed. Tenants who are feeling harassed can often obtain relief simply by putting their complaints in writing to the landlord and the Rent Board. Advice for tenants and landlords on avoiding or resolving these situations is available from RSB counselors.

SOME COURT RECORDS TO BE SEALED

Private agencies collect the names of tenants involved in eviction court actions, even where the judge found no merit to the landlord's case. Landlords sometimes use this information to screen potential new tenants. Tenants have reported that a past eviction action made qualifying for their next tenancy difficult. Consequently, Civil Code of Procedure 1161.2 has been amended to provide that if a tenant successfully blocks an eviction action, the court records are sealed. This new law will shield tenants who win eviction cases from having their names reported in court records.

Two other new amendments to law require landlords to:

1. Attach receipts for deductions made from the security deposit at the termination of the tenancy. Current law also requires a landlord, at the request of the tenant, to inspect the unit and identify correctable problems after the tenant has given notice to leave. A landlord who fails to give the tenant a reasonable opportunity to correct problems may not be able to collect for those items.
2. Attach copies of the Rental Agreement and the Notice of Termination to any eviction ("unlawful detainer") court filing.

2004 AGA

On October 20, 2003, the Berkeley Rent Stabilization Board adopted the Annual General Adjustment (AGA) Order for 2004. Effective January 1, 2004, rent ceilings increased by 1% plus an additional \$3 for all units for which an Initial Rent was established between January 1, 1999, and December 31, 2002, and by 1.5% and an additional \$3 for all other rental units covered by the Ordinance, except those rental units for which an Initial Rent was established in 2003.

Unpaid Security 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 those monies each year in December. If the interest due is not paid to the tenants by January 10th, Rent Board Regulation 704 allows tenants to deduct interest, at the rate of 10% from a rent payment after they have given their landlord 15 days' notice in writing.

Hellos, Goodbyes, and Thank you!

Last October the long-time Housing Counselor, **Carlos Rios** retired. Rent Board members, staff, and the community thank Carlos for his 18 years of service with the Berkeley Rent Board. Always known to be ready to step up for the call of duty, Carlos' gregarious warmth will be dearly missed.

On December 15, 2003, the Berkeley Rent Board bid **Commissioner Matthew Siegel** a fond farewell. Board and staff thanked Commissioner Siegel for his dedicated three years of service on the Board, and wished him the best.

WORKSHOPS

The Rent Board is offering a series of workshops on Wednesday evenings for tenants and landlords who are interested in learning about specific topics within Rent Control. Rent Board staff is also available to do special workshops or presentations. If you represent a group and would like to request a workshop or presentation, please call; (510) 644-6128.

Security Deposits



How should deductions, refunds, and interest be calculated, and when should they be paid?
February 4, 2003 @ 5:30 pm
2125 Milvia Street



Should Your Unit/s Be Registered?

Landlords and tenants, come learn about which rental units are subject to the Berkeley Rent Ordinance.
February 11, 2004 @ 5:30pm
2125 Milvia Street

Is the More, Really the Merrier??



Landlords, what happens if your tenants move in additional occupants? Tenants, what happens when your landlord blocks a replacement roommate?
February 18, 2004 @ 5:30 pm
2125 Milvia Street



Lease Renewals, And Partial Turnovers

Landlords, come learn how these events should be administered.
February 25, 2004 @ 5:30pm
2125 Milvia Street

Harassment

Has this been an issue for you? Come and join us in discussion of possible resolutions, relevant laws, and appropriate recourses.
March 3, 2004 @ 5:30 pm
2125 Milvia Street



RENT STABILIZATION PROGRAM

2125 Milvia Street
 Berkeley, CA 94704
 Phone: (510) **644-6128**
 Fax: (510) 644-7723
 TDD: (510) 981-6903

E-mail: rent@ci.berkeley.ca.us
 Office Hours:
 Monday - Friday
 9:00 a.m. - 4:45 p.m.,
 Except Wednesdays
 12:00 noon – 6:30 p.m.

OTHER IMPORTANT PHONE NUMBERS

City of Berkeley:

- Fire Prevention981-5585
- Garbage Collection.....981-6350
- Health Department981-5310
- Housing Inspections981-5445
- Property Records981-7200
- Relocation Program.....981-5431

Other:

- ASUC Renters
 - Legal Assistance.....642-1755
- Berkeley Dispute Resolution Service..548-2377
- Black Property Owners Association848-8600
- Berkeley Property Owners Association525-3666
- Dept. of Fair Employment and Housing.... 800-884-2684
- Dept. of Consumer Affairs..... 800-344-9940
- East Bay Community Law Center548-4040
- East Bay Municipal Utility District232-5051
- Eviction Defense Center.....452-4541
- Housing Rights, Inc.548-8776
- Lawyer Referral Service893-8683
- Lawyers in the Library
 - Claremont981-6280
 - North Berkeley981-6250
 - South Berkeley981-6260
 - West Berkeley981-6870
- Community Legal Aid Society451-9261
- Legal Assistance for Seniors832-3040
- Sentinel Fair Housing..836-2687
- Small Claims Advice Program268-7665
- Volunteer Legal Services Program ... 893-1031