

BERKELEY RENTAL NEWS

Newsletter of the Berkeley Rent Stabilization Board

LIMITATIONS ON OWNER OCCUPANCY EVICTIONS

In Berkeley, most tenants cannot be evicted unless there is good cause. One “good cause” ground for eviction is called “owner-occupancy.” Under this rule, a landlord may evict a tenant so that the landlord, or the landlord’s spouse, child or parent, can occupy the unit as a principal residence. There are many requirements that must be satisfied for an owner-occupancy eviction to be valid; until these requirements are satisfied, the landlord will be unable to evict and/or the tenant will have a defense in court.



1. Only a landlord who has a recorded interest in the property of at least fifty percent can evict for owner occupancy.
2. To begin the process for an owner-occupancy eviction, a landlord must serve a written thirty-day notice of intent to owner-occupy on the tenant. It is not enough for the landlord to tell the tenant that he or she wants to live in the unit or that he or she wants the unit for a child to live in.
3. To be valid, the 30-day notice must specify the name and relationship to the landlord of each individual for whom the landlord seeks to recover possession of the property for occupancy as a principal residence.
4. A copy of the notice must be filed with the Rent Board within ten days after it was served on the tenant.
5. Generally, a tenant will not be evicted if a comparable unit on the property was vacant within 90 days before the 30-day notice was issued or a comparable unit becomes vacant before the tenant leaves.
6. Finally, the first time a unit is rented after an eviction for owner-occupancy, the rent charged may not exceed the last lawful rent in

effect, plus any intervening annual general adjustments. Additionally, the person named in the notice must occupy the rental unit as his/her/their principal residence for 24 consecutive months after the tenant moves; otherwise, the tenant may have a claim against the landlord for a bad faith eviction.

A landlord seeking to evict a tenant for owner-occupancy may contact the Rent Board for information about the notice requirements. Likewise, a tenant who receives a 30-day notice to vacate for owner-occupancy may contact the Rent Board for information regarding the validity of the notice.

NOTICES OF APPARENT LAWFUL RENT CEILING ARE IN THE MAIL



The Board has started mailing Notices of Apparent Lawful Rent Ceiling to landlords and tenants, in weekly batches. Landlords will receive a Notice that lists all the units on a property. Tenants will receive a Notice only about their unit.

A Notice of Apparent Lawful Rent Ceiling is an informational, non-binding document, which reflects the Rent Board’s information on the rent ceiling for a unit. It may also list the number of bedrooms, the start date of the current tenancy, and the number of occupants and housing services included in the rent ceiling.

For tenancies started on or after January 1, 1996, the rent ceilings listed in the Notice may be inaccurate if the landlord has not filed a Vacancy Registration (VR) form. A landlord who has not filed a VR form should do so immediately.

Tenants who are paying rent higher than the amount indicated on their notice should call a Rent Board housing counselor at 644-6128 to discuss options.

SECURITY DEPOSITS MUST BE RETURNED



State law (Civil Code §1950.5) requires landlords to refund the tenants’ security deposit in full or, if deductions are made, to provide a written accounting and the balance of the deposit within 21 days of the time the tenancy is terminated and the unit is *completely* vacated, that is, when the last tenant has moved. No portion of a security deposit is “nonrefundable.” Landlords may deduct for unpaid rent, damage beyond normal wear and tear, and necessary cleaning.

To protect against deductions from their security deposit, tenants should restore the apartment to the condition it was in at the beginning of the tenancy. Tenants are not responsible for deterioration resulting from normal use or the passage of time (“normal wear and tear”), such as peeling paint, faded drapes, or worn carpets.

To protect against unjustified deductions and challenges to justified deductions, both tenants and landlords are advised to document the condition of the apartment upon vacancy. A joint walk-through with a written checklist, photographs or an inspection by a disinterested neighbor are helpful if a dispute arises.

To facilitate the receipt of their security deposit and/or an itemized accounting of its disposition, tenants should give their landlords a forwarding address.

APRIL IS EARTHQUAKE PREPAREDNESS MONTH

Seismologists now say that there is a 67% chance of a major earthquake in northern California within the next 30 years. If a major earthquake struck here today, we might all be without direct assistance for at least 72 hours. What better time than April, **California Earthquake Preparedness Month**, to review our disaster plans and prepare?

Here is some advice for landlords and tenants to help prepare for an earthquake:

- Make an evacuation plan for yourself and your family that includes at least two ways out of your building, and at least three places to meet.
- Arrange for a long distance telephone contact with whom everyone in your family can check.
- Know where gas, electric, and water turns-offs are located in your building, and make sure you know how to turn them off.
- Prepare an emergency supplies kit, enough for three days per person. Include water, canned foods, a flashlight with extra batteries, a first aid kit, medications that you take regularly, money, tools, a blanket, and work gloves.

Tenants in multi-unit buildings should hold informational and planning meetings, where you can:

- Practice earthquake drills.
- Organize teams of neighbors to be responsible for first aid, search and rescue, communications and firefighting.
- Compile a list of resources and skills available among your fellow tenants.
- Identify residents with special needs - such as the mobility impaired, non-English speaking, elderly, or hearing and sight impaired - and make sure their needs are addressed in your emergency plans.

The City's Office of Emergency Services has staff available to come to your meeting place and to talk to you in a group about basic personal preparedness and how to organize yourselves. Call 644-8736 for more information on this free service.

Why Does it Take So Long to Get a Hearing Examiner Decision?



Board staff is often asked by a party to a petition why, after a hearing is held, they must wait so long before the hearing examiner issues the decision. Many factors affect the time it takes to write a decision. Hundreds of Rent Board petitions are decided each year. The hearing examiners generally issue decisions in the order in which they are heard (and, in the case of administrative decisions -- petitions to which no objections have been filed and no hearing is held -- the order in which the petitions are filed).

For obvious reasons, cases where the law is not settled, significant facts are disputed, or numerous issues are presented, require more time. Petitions alleging habitability problems generally take longer because the hearing examiner must make a judgment, based on the evidence presented, as to the level of impairment, if any, to the tenant's use of and benefit from the rental unit.

ECHO/PROJECT SHARE

ECHO/Project Share provides free listings, roommate matching and referral services for people interested in shared housing. Shared housing is a viable alternative to the high cost of shelter for people with limited budgets, including single mothers and the elderly. Renting an extra room in your home or apartment is a great way to cut costs, just as renting a room is less expensive than renting an apartment.

Project Share offers an array of housing information and affordable housing contacts. In addition, free workshops are offered every Wednesday at 3102 Telegraph Avenue in Berkeley, on topics such as Shared Housing Options for Women with Children, the Home Buyers Program and Shared Housing, and Shared Housing and Lease Agreements. To register for services or for information on upcoming workshops, call (510) 845-9030.

RENT BOARD INFORMATION

Address and Phone:

Rent Stabilization Board
2125 Milvia Street
Berkeley, CA 94704
(510) 644-6128



Office Hours:

Mon.-Tues., Thurs.-Fri.,
9:00 a.m. - 4:45 p.m.
Wed. 12:00 noon - 4:45 p.m.

E-mail:

rent@ci.berkeley.ca.us



Internet:

www.ci.berkeley.ca.us/rent

Other Important Phone Numbers

City of Berkeley:

Fire Prevention 644-6158
or 644-6189
Garbage Collection 644-8856
Health Department 644-6510
Housing Inspections 644-6445

Other:

ASUC Renters Legal Assistance 642-1755
Berkeley Dispute Resolution Service 428-1811
Berkeley Black Property Owners Association 595-3304
Berkeley Property Owners Association 525-3666
Dept. of Fair Employment and Housing 800-884-2684
Dept. of Consumer Affairs 800-344-9940
East Bay Community Law Center 548-4040
Eviction Defense Center 452-4541
Housing Rights, Inc. 548-8776
Lawyer Referral Service 893-8683
Lawyers in the Library
Claremont 644-6880
North Berkeley 644-6850
South Berkeley 644-6860
West Berkeley 644-6870
Community Legal Aid Society 451-9261
Legal Assistance for Seniors 832-3040
Sentinel Fair Housing 836-2687
Small Claims Legal Advisers 644-6303
Tenants Action Project 843-6601