



Rent Stabilization Board

## **Questions and Answers on Berkeley Rent Board Regulation 1282: Individual Rent Adjustments for Units in Properties with No Vacancy Increases since December 31, 1998.**

### Which units qualify for the six percent rent increase?

A unit is a qualifying unit if it is in a property where no units have received a vacancy increase on or after January 1, 1999 and no units are currently exempt from registration except that one unit may be owner-occupied. (Units added after 1980 are not counted as part of this process.)

### When can a property owner take the rent increase?

The increase comes in two stages. The initial 3% increase can take effect no sooner than January 1, 2013 and the second 3% increase can take effect twelve months after the first increase.

### What does the owner have to do to apply for these increases?

First, fill out the petition and send a copy by first-class or certified mail or have it delivered personally to the tenant(s) of each unit for which you apply for an increase.

Second, fill out the Proof of Service form, stating that you or your agent sent or delivered the petition(s) to the tenant or tenants.

Third, send or deliver the two forms (petition and proof of service) to the Rent Board. There is no application fee.

### What happens if Rent Board records do not match the information in the owner's petition?

If Rent Board records do not indicate that this is a qualifying property then the Board will ask the landlord to provide additional information showing that the Rent Board records are in error. The additional information must be submitted within 30 days of the request from the Board.

For some properties, usually those with five units or more, the Rent Board will review other sources of information as well as its own records to verify that there has been no turnover in these units since 1998.

### How does a tenant object to the increase?

Unless the Rent Board has received an "agreement of parties/waiver of right to a hearing" signed by all tenants, the Board will send a notice to all tenants informing them that they have a right to object to the petition. The petition may be decided without a hearing if the tenant does not object

within 20 days of the date the Board sends out its notice or if the tenant's objection does not specify at least one of the allowable reasons listed in the regulation. If the tenant objects, they must provide a copy of their objection to the owner and submit a proof of service form.

#### What are the allowable reasons for tenants to object?

Tenant may object for any of the following five reasons:

- (1) The property does not qualify because one or more units received a vacancy increase after 1998 or because there are exempt units other than one owner-occupant.
- (2) The owner is charging more than the legal rent ceiling for the unit.
- (3) The unit is deteriorated, does not provide adequate housing services or fails to comply substantially with state housing laws or local housing, building, health and safety codes.
- (4) The unit has suffered a significant decrease in space or services since the tenant moved in, or the landlord is in material breach of the rental agreement.
- (5) The rent ceiling for the unit has previously been adjusted under this regulation.

#### What happens when a tenant files an objection with the Rent Board?

If any tenant files a timely objection raising appropriate grounds, the Board will set the petition for an individual rent adjustment hearing before a Hearing Examiner. If the objection is found to be valid, the rent increase will be denied or deferred as the hearing examiner determines to be appropriate. An increase that is deferred, such as for needed repairs, will be made effective after the Board receives proof of compliance. Either party can appeal the Hearing Examiner's decisions to the full Rent Board.

#### How did the Rent Board decide on an increase of 6%?

In 2004 the voters approved a new method for determining the Annual General Adjustment, the regular January 1<sup>st</sup> rent increase. Starting in January 2006 the annual increase was set at 65% of the increase in the Consumer Price Index (CPI) for the previous year. Before 2006 the AGA was based on a study of owners' average cost increases for the previous year. Rents in most properties have increased much faster than the increase in the rate of inflation (the CPI), because one or more units have received major vacancy increases. In the small number of properties that have not had a vacancy, rent increases have fallen behind the rate of inflation by almost 6%.

#### Why did the Rent Board pass this new regulation?

Owners already have the right to petition for rent increases necessary to maintain their net operating income. This petition process requires the owner to provide a full financial analysis of the property. It takes significant time for the owner to prepare, for the Rent Board hearing examiner to analyze and for any tenant considering an objection to review. Many owners feel the need to hire professional assistance, and this cost may then be added to the rent increase if it is approved. The Board believes it is fair to all parties to have a simpler process for the properties where no unit has received a vacancy increase.