



RENT STABILIZATION BOARD
IRA / AGA / REGISTRATION COMMITTEE MEETING

Tuesday, November 10, 2020

5:30 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE.

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Rent Stabilization Board's **IRA / AGA / Registration Committee** (Committee) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, **there will not be a physical meeting location available.**

To access this meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device by clicking on this URL: <https://zoom.us/j/96594936273?pwd=Zno4cndHbkk4cmtvLzh0UDVQPQVVZQT09>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename Yourself to be anonymous. To request to speak, use the "Raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-408 638 0968 and enter Webinar ID: 965 9493 6273 and Passcode: 270264. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Committee Chair.

To submit an e-mail comment to be read aloud during public comment, email mbrown@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM FOR IRA/AGA COMMITTEE". Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 3:30 p.m. on the day of the Committee meeting in order to be included.**

Please be mindful that this will be a public meeting and all rules of procedure and decorum will apply for meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with Government Code Section 54953 and all current state and local requirements allowing public participation in meetings of legislative bodies. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Matt Brown, Acting Executive Director, at (510) 981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



Rent Stabilization Board

RENT STABILIZATION BOARD

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Tuesday, November 10, 2020 – 5:30 p.m.

AGENDA

1. Roll call
2. Approval of the agenda
3. Public Comment
4. Discussion and possible action to consider recommending that the full Board adopt a Registration Fee for Partially-Covered rental units pursuant to the requirements of the language added to the Rent Ordinance by Measure MM (see attached Staff Report)
5. Discussion and possible action regarding future agenda items
 - ➔ Regulation to adjust evidentiary standard in cases concerning Golden Duplexes (BMC Sections 13.76.050F. and H.)
 - ➔ Auto-renewal lease issues
6. Confirm next meeting date
7. Adjournment

STAFF CONTACT: Matt Brown, Acting Executive Director (510) 981-4930

COMMITTEE: Soli Alpert, Paola Laverde, Leah Simon-Weisberg (Chair)



Rent Stabilization Board
Office of the Executive Director

MEMORANDUM

DATE: November 10, 2020

TO: Honorable Members of the IRA/AGA/Registration Committee

FROM: Matt Brown, Acting Executive Director MB
By: Lynn Wu, Staff Attorney
Lief Bursell, Senior Planner

SUBJECT: Recommendation to Consider a Registration Fee for Partially-Covered Units

Recommendation

That the Board adopt a resolution setting the Fiscal Year (FY) 2021 annual registration fee for partially-exempt units, due March 1, 2021, at \$100 per unit. The fee is calculated based on the revenue necessary to cover the costs of the outreach and implementation necessary to register certain partially covered units. Only a prorated fee for 6 months (50%) will be due since the expanded registration requirements in Measure MM will not go into effect until December 18, 2020.

Background

On July 30, 2020, the City Council voted to submit to the voters proposed amendments to the Rent Stabilization and Eviction for Good Cause Ordinance that included language authorizing the Board to set a reduced registration fee for certain partially-covered rental units, including single-family homes, condominiums, and units constructed after June 30, 1980, that qualify as new construction pursuant to B.M.C. § 13.76.050I and Regulation 510. Partially-covered units are subject to the Rent Ordinance's eviction protections and requirements to return security deposit interest, but are exempt from rent control.

Due to the passage of Measure MM, owners of single-family homes and condominiums available for rent and owners of newly-constructed rental units will be required to register their rental units

with the Rent Stabilization Board within 60 days of December 18, 2020, the date that the measure will go into effect.

Prior to the passage of Measure MM, when owners, property managers, and tenants of these partially-covered rental units sought information from the Rent Board, staff were unable to provide them with substantive assistance since the agency is funded by registration fees and thus staff could assist only those associated with fully covered units. Now, Rent Board staff will be able to provide more meaningful and individualized assistance to owners, property managers, and tenants of these units, and offer counseling on the Rent Ordinance, guidance on the applicability of other local and state laws on Berkeley rental properties, and mediation services.¹

The registration fee for these units will only cover expenses incurred by the Board as a result of the services available to owners, property managers, and tenants of these partially-covered units, as well as registration of those units. The fee will not cover the costs associated with petitions for individual rent adjustments, litigation related to fully covered units, and other services that are not available to partially covered units.

Expanding Registration to Partially Covered Units

Staff and the IRA/AGA/Registration Committee outlined the necessary steps to implement expanded registration if Measure MM were to pass. Aside from passing a registration fee, these steps were: 1) Identify qualifying partially covered units; 2) Establish procedures for partially covered unit registration and data collection; 3) Build a registration and billing software solution for partially covered units; and 4) Inform owners of the new registration requirements.

Staff have been working on these steps over the last few months, and will work in earnest to complete them in time to implement expanded registration after the election results are certified. Staff will present the Board with a more detailed proposed implementation plan at their December 17 meeting.

Ongoing Services for Partially Exempt Units

The passage of Measure MM will significantly increase the scope of services available to eligible partially-covered units on an ongoing basis. This will require work from the agency's Registration Unit, Public Information Unit, Hearings Unit, and Administration & Policy Unit to register partially-covered units, collect and analyze their rent and tenancy information, provide mediation services, and counsel the owners, tenants, and property managers of these units.

¹ Both the Board and Council stressed the importance of collecting information from these partially-covered units in order to better understand issues associated with stability and affordability in the community. Currently, much of the information the Board has regarding these partially-covered units is anecdotal and unreliable. The registration information gathered by staff will assist with gaining a more complete understanding of price levels and services in much more of Berkeley's rental housing stock.

Registration Unit

After the initial outreach and rollout effort, the registration of partially exempt units would require similar effort from staff as required for the registration of controlled rental units because owners of partially exempt units would provide the agency with similar information. The Registration Unit would send bills, register units, update owner and property manager information, and process payments just as they do for controlled rental units. Owners of partially exempt units would only be required to provide updated tenancy information annually; owners of controlled rental units are required to update tenancy information any time there is a change in tenancy. This could result in a slight reduction in efforts for partially covered units, but it may not be significant since the agency already receives the vast majority of new tenancy information for controlled units during the registration season.

Public Information Unit

Owners, tenants, and property managers of partially-covered units would be eligible for a significant increase in services from the agency's Public Information Unit. In addition to providing more in-depth counseling on applicable portions of the Rent Ordinance, including evictions and security deposits, PIU staff can counsel on a significant number of local and state laws that apply to partially covered units. These include the Berkeley Emergency Response Ordinance, the state eviction moratorium (AB 3088), the statewide anti-rent-gouging law (AB 1482), the Tenant Buyout Ordinance, the Relocation Ordinance, the Rental Housing Safety Program, and the Short-Term Rental Ordinance. In addition to receiving counseling on these topics, owners and tenants of partially-covered units will be eligible to attend webinars that cover topics such as evictions and security deposits.

Tenants of partially-covered units will also be eligible for referrals to the Eviction Defense Center and the East Bay Community Law Center.

Hearings Unit

The Hearings Unit would provide free mediation services to tenants and owners of partially covered units. The Hearings Unit will also provide administrative support to mediation cases for partially covered units.

Administration & Policy Unit

The Administration & Policy Unit would provide reporting and analysis of the data collected on partially covered-units to the Board and public. This will give the Board a better understanding of price levels and services offered in many more occupied rental units, since currently, the Board only collects information for controlled units.

Fee Structure for Partially Covered Units

In considering the appropriate fee for partially-covered units, Rent Board staff reviewed the City of Richmond Rent Program's fee structure.

Richmond Fee Structure

The Richmond Rent Program was originally implemented with a flat fee that applied equally to both fully covered and partially covered units. Richmond maintained a flat fee structure for the first 1.5 years of the program in order to share the agency’s startup costs equally among all rented units. For the 2018-19 Fiscal Year, Richmond transitioned to a tiered fee that was calculated by assigning the costs of program administration to three distinct components: a general “program” component (55% of program costs), a “just cause” component (20% of program costs), and a “rent control” component (25% of program costs). Legal services are allocated differently: 9% to the “program” component, 74% to the “just cause” component, and 17% to the “rent control” component.

Under Richmond’s current tiered fee structure, partially covered units are responsible for paying only the program and just cause components. Fully covered units are responsible for paying all three components. The following table shows Richmond’s tiered fee for the 2019-20 and 2020-21 Fiscal Years.

Comparison of Richmond Rent Program House Fees				
Status	Unit Count	2019/20 Fee	Unit Count	2020/21 Fee
Fully Covered Units	7,802	\$212	7,433	\$219
Partially Covered Units	11,457	\$112	10,251	\$124

The calculations for Richmond’s fee level depend greatly on the total number of partially and fully covered units. The Richmond Rent Program has more partially covered units (10,251) than fully covered units (7,433). For the 2020/21 Fiscal Year Richmond anticipated that 44% of their revenue was to come from partially covered units and 56% from fully covered units.

Partially Covered Unit Estimate

The total number of rented units in Berkeley that may qualify as partially-covered is unknown. Also, the agency’s Rent Tracking System (RTS) currently contains 5,576 units that would likely qualify as partially-covered units, if they are rented:

Partial-Exemption Type	Count
New Construction	3,636
Single-Family Homes & Condominiums	1,940
Total	5,576

Staff in the Administration & Policy Unit have identified an additional 5,087 single-family homes and 942 condos that do not claim a homeowner’s exemption and could possibly be rented. These units were cross-referenced with data from the City of Berkeley Rental Housing Safety Program. The agency intends to include all property owners of a total of approximately 11,600 partially-covered units in the initial outreach effort.

These 11,600 units represent the likely potential universe of partially-covered units, but there is

no way of knowing the exact number of these units that are currently rented. It is more likely that the new construction, multi-family properties are renting their units and would qualify for partial coverage. On the other hand, condominiums and single-family homes may be owner-occupied or occupied by family members rent-free and therefore eligible for an exemption from the registration fee for partially covered units. The agency will learn more about the current status of these properties after it reaches out to the owners and possible tenants of these units.

Berkeley Fee Structure

Given that the agency currently focuses its services almost exclusively on fully-controlled units and will provide a different level of services to fully and partially-covered units, a tiered fee is the most appropriate fee structure for Berkeley.

Since the total number of partially-covered units that will pay the fee is unknown, staff cannot accurately estimate costs for services provided for these units. The universe of partially-covered units in Berkeley will become clearer after the agency has finalized the registration process and completed outreach to the owners and tenants of these units. At that point we can calculate a more accurate estimate of the costs of providing services to these units for the 2021-22 Fiscal Year. With a better idea of the actual number of partially exempt units, staff can complete a fee study similar to the one done by Richmond with a greater focus on separating the costs of services provided to both fully-covered and partially-covered units.

Given that the Board's services will still primarily go to tenants and owners of controlled rental units, a tiered-fee study for the FY 2021-22 registration fee will likely attribute a higher percentage of program costs to fully covered units, when compared with Richmond's Rent Program.

It may be more appropriate for staff to work with the Budget & Personnel Committee to provide an in-depth fee study for a tiered fee for consideration as part of the FY 2021-22 budget process.

Proposed Fee Level

Staff anticipates that significant outreach will need to be done to identify and inform owners of partially-covered units of the new registration requirements. In addition, the Board has already set its registration fee for FY 2021, which does not account for the collection of registration fees for partially-covered units. Thus, staff propose that the Board adopt a nominal registration fee prorated for the remainder of FY 2021. This fee will fund identification of and outreach to owners of partially-covered rental units that will be required to register and costs associated with registration. The fee will also partially fund the development and maintenance of a registration and billing software solution to process registration information, facilitate billing, and allow for online registration and payment.

Rent Board staff propose that the Board adopt a fee of \$100 per partially covered unit. Since Measure MM will only be in effect for about six months of FY 2021, the prorated fee will be \$50 or if the Board adopts a different fee, half of the full registration fee for partially covered units.

Conclusion

Board staff have been preparing for the possibility of expanding registration to include partially covered units since Measure MM was placed on the ballot on July 30, 2020. Now that the measure has passed, staff will accelerate their preparation to roll out a registration effort in January of 2021 and recommend a March 1, 2021, payment due date.²

Given that the number of partially-covered rental units required to register is currently unknown, staff recommend setting the fee at a level necessary to cover the costs of identification, outreach, and registration of these units. This fee will also fund the staff's increased activities associated with these units including more robust counseling and available mediation services. When the number of partially-covered units and compliance level is known, a full fee study will be prepared as part of the FY 22 budget process. Staff seek the Board's comment and feedback on this proposal.

² While Measure MM adopted language in the Rent Ordinance that requires the units to be registered within 60 days of the date the election is certified, it would be far easier to extend that date by 13 days to March 1, 2021, so that the fee is not due on February 18. This will still allow the Board to comply with the law.