



RENT STABILIZATION BOARD
IRA / AGA / REGISTRATION COMMITTEE MEETING

Tuesday, September 8, 2020

5:00 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/99315248355?pwd=eFErL2ZpQ014SGY5TU8xYzN2Q0dQZz09>. 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 1-669-900-6833 and enter Webinar ID: 993 1524 8355 **and Passcode:** 328946. 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 3:00 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

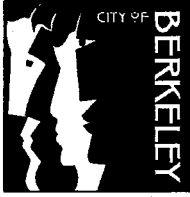
RENT STABILIZATION BOARD
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Tuesday, September 8, 2020 – 5:00 p.m.

AGENDA

1. Roll call
2. Approval of the agenda
3. Public Comment
4. Discussion and possible action to recommend proposal for implementing the registration of partially exempt units if Measure MM is adopted at the November general election (see attached staff report)
5. Discussion and possible action regarding future agenda items
 - ➔ Can Rent Ordinance be adjusted through Regulations to have remedies more closely associated with Tenant Protection Ordinance?
 - ➔ Auto-renewal lease issues
 - ➔ Summary of issues outside Board jurisdiction
6. Confirm next meeting date
7. Adjournment

STAFF CONTACT: Matt Brown, Staff Attorney (510) 981-4930

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




Rent Stabilization Board
Office of the Executive Director

MEMORANDUM

DATE: September 8, 2020

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

FROM: Matt Brown, Acting Executive Director 
Lief Bursell, Senior Planner

SUBJECT: Potential Registration of Certain Partially-Exempt Units

Recommendation

That the IRA/AGA/Registration Committee provide input and feedback on the proposal for implementing the registration of certain partially-exempt units if Measure MM is adopted by a majority vote in the general election on November 3, 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 include language authorizing the Board to set a reduced registration fee for certain partially-exempt units, including rented condominiums, single-family homes, and rental units constructed after June 30, 1980 that qualify as new construction.¹ Partially-exempt units are subject to the Rent Ordinance's eviction protections but exempt from rent control.

If passed, this amendment would require landlords to register these units within sixty days of coming under coverage of the rent ordinance. The fee for the first-time registration of these units would be pro-rated for the remaining six months of the year, which is 50% of the fee level that will be set by the Board.

¹ New construction is defined in BMC 13.76.050I. and Regulation 510.

Single-Family Homes and Condominiums

Rented single-family homes and condominiums were subject to both rent control and registration fees from the inception of the Rent Ordinance in 1980 until January 1, 1996 (the operative date of the Costa-Hawkins Rental Housing Act). Costa-Hawkins exempts from rent control all tenancies in single-family homes and condominiums with tenancies that began on or after January 1, 1996.

If Measure MM passes, units that qualify for other exemptions from rent regulation would still be exempt from expanded registration. For example, a partially-exempt condominium unit leased to a tenant assisted under the Section 8 program would maintain an exemption from registration.

New Construction

The vast majority of residential units that were newly constructed after June of 1980 are partially exempt. The Rent Ordinance initially exempted new construction units that were completed and offered for rent after June 30, 1980, provided that the new units were not created as a result of rehabilitation or conversion. Costa-Hawkins added an additional exemption for new construction units that have a certificate of occupancy issued after February 1, 1995. In 2016, the voters passed Measure AA, which amended the new construction exemption to clarify that only units that have received a certificate of occupancy after June 30, 1980 are exempt from rent controls and registration.

A small portion of new construction units are below market rate units created under Berkeley's Inclusionary Ordinance or pursuant to state density bonus law provisions. There is no exemption in the Rent Ordinance for below market rate units, so these units would also be required to register if Measure MM passes.

Number of Partially Exempt units

The agency's Rent Tracking System (RTS) currently contains the following partially-exempt units:

| Partial-Exemption Type | Count |
|------------------------------------|-------|
| New Construction | 3,044 |
| Single-Family Homes & Condominiums | 1,299 |
| Total | 4,343 |

Implementing Expanded Registration

If Measure MM passes, property owners will have 60 days to register any qualifying, partially-exempt units. This leaves little time for the agency to implement new registration procedures and to inform the owners of partially-exempt units. In order to implement expanded registration in November, the agency must take the following steps:

1. Identify Qualifying Partially-Exempt Units

The agency already has over 4,343 potentially qualifying units in its RTS database. Staff has recently initiated an effort to identify additional partially-exempt units through a review of Alameda County parcel data and the properties that currently participate in Berkeley's Rental Housing Safety Program. Staff is still vetting this data, paying particular attention to condominiums and single family homes that do not currently claim homeowners' exemptions.

2. Establish Procedures for Partially-Exempt Registration and Data Collection

Staff recommends that the agency collect tenancy information on partially-exempt units on an annual basis with the payment of the registration fee. The agency can collect similar data to what is currently collected for controlled rental units including: number of occupants, number of bedrooms, and the types of services included (utilities, parking space, laundry access, etc.). Since there will be no rent ceiling for these units,² it would be useful for the agency to collect data on both the initial rent and the current contract rent during each registration period. Collecting this data will also allow the Board's housing counselors to determine if the rent charged for units that are protected under AB 1482 (California's Statewide Anti-Rent Gouging protections) is within the statewide rent cap.

Tenant Confidentiality

Confidentiality of tenants' information has always been of primary importance to the Board. California Civil Code Section 1947.7(g) requires that tenant information collected for controlled rental units be maintained confidential (e.g. it is not disclosed when someone makes a Public Records Act request). Staff is still researching whether the Board is able to maintain confidentiality of tenants' personally identifying information collected pursuant to registration of partially-exempt rental units. If this information cannot be kept confidential, staff strongly recommends that the Board not ask landlords to provide any personal tenant information.

3. Building Registration and Billing Solution for Partially-Exempt Units

Once the Board has given direction on registration and data collection procedures, it will allow staff to create the requirements for building out a software platform to accept registration and payment for partially-exempt units.

In order to implement expanded registration of partially-exempt units, the agency will require a software solution to process this information, facilitate billing, and allow landlords to register and pay for these units online. Agency staff has given a general overview of these requirements to its IT consultants from Software AG, TransSight and 3Di, and has determined that the best option is to build out these requirements in 3Di's platform.

² While the Board will be able to register and collect information for these partially-exempt units if Measure MM passes, Costa-Hawkins will still require that these units be exempt from rent controls. In other words, the Board will not have jurisdiction to rule on disputes regarding rent charged but will be able to provide greatly enhanced services for landlords and tenants living in these units.

The current RTS database is not built to handle two separate registration processes, so the only other feasible option would be to build a temporary billing system outside of RTS that can interface with the agency's current online payment and registration portal. This would not allow the agency to immediately collect tenancy data on these units, and staff would have to wait to input data collected until 3Di develops a fully functional replacement system.

After speaking with 3Di representatives about the requirements, they believe they can create and implement the necessary features on their platform by November of this year. Since they have been tasked with building out all the features of a replacement system, it is more cost effective to build out a partial registration solution rather than to build it out two times, in separate systems.

Utilizing 3Di's platform will also give staff valuable experience using 3Di's software and should provide a solid foundation for building out the full registration and billing features so they are ready in time for the 2020/2021 Fiscal Year registration season.

4. Setting the Registration fee

If Measure MM passes the Board is required to set a fee. Staff will bring recommendations to this committee and/or full Board once the results of the election are known. The Board may consider setting a special meeting immediately after the November 3rd election to consider these issues.

5. Informing Owners

Many of these units are located in large, mixed-use buildings whose owners and property managers may have never interacted with a rent control agency. We anticipate this might lead to slower compliance and require additional staff work to enforce the new registration requirements.

Conclusion

Board staff is working diligently with 3Di to prepare the agency to collect information and register partially-exempt units as delineated in Measure MM. To this end, it will be important for the Board to provide direction to staff regarding what information the agency intends to collect and how frequently staff will require landlords to notify the agency regarding rent levels for these units.