

RESOLUTION 20-05

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF THE FISCAL YEAR (FY) 2020/2021 REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS AND HAVE STAFF IMPLEMENT A MECHANISM THAT ALLOWS QUALIFYING LOW-INCOME TENANTS TO BE REIMBURSED FOR ANY PASS-THROUGH

BE IT RESOLVED by the Rent Stabilization Board of the City of Berkeley as follows:

WHEREAS, the Rent Stabilization Board operates on the basis of a fiscal year and each year adopts an operational budget after public review and input; and

WHEREAS, Section 123 of Article XVII of the Charter of the City of Berkeley provides that the Rent Stabilization Board shall finance its reasonable expenses by charging landlords annual registration fees in amounts deemed reasonable by the Board; and

WHEREAS, the Executive Director and Rent Stabilization Board believe that recurring annual revenue of \$5,100,000 in FY 2021 will be necessary to meet the Program's operating and capital needs and it will require an annual registration fee of \$250 per unit; and

WHEREAS, Sections 6.N and 8.K of the Rent Stabilization Ordinance authorize the Rent Board to approve passing a portion of annual registration fees along to tenants as a rent adjustment; and

WHEREAS, prior to the voters changing the way in which the Annual General Adjustment (AGA) was calculated effective in 2005, the Board passed along to tenants all increases in the registration fees as one of the components of the AGA; and

WHEREAS, with the voter-approved change in how the AGA is calculated, the Board is no longer allowed to include new increases to the registration fee as part of the AGA, but only as a pass-through adopted and extended each year; and

WHEREAS, the Rent Stabilization Board consistently found that it would be fair and equitable in view of the purposes of the Rent Ordinance to pass along to tenants part or all of the increase in the registration fee as a temporary adjustment of rent ceilings; and

WHEREAS, under vacancy decontrol, owners are expected to take into account past and anticipated future operating cost increases when setting the initial rent for a new tenancy, and therefore, increases to the registration fee presumably have been factored into the rent charged; and

WHEREAS, approximately 10% of the rental units in the City have a tenancy that began prior to January 1, 1999, when vacancy decontrol was fully implemented; and

WHEREAS, the Board has attempted to guarantee that owners of these non-decontrolled rental units continue to receive a pass-through for increased costs to the registration fee; and

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WHEREAS, the Rent Stabilization Board finds that it would be fair and equitable in view of the purposes of the Rent Stabilization Ordinance to continue to pass along to certain tenants a portion of the 2021 registration fee as a temporary adjustment of rent ceilings; and

WHEREAS, the Board also understands and wishes to mitigate the financial hardships experienced by tenants at 50% or less of Area Median Income (AMI) as calculated by the Department of Housing and Urban Development (HUD) for the Oakland-Fremont, CA HUD FMR Area, or otherwise receiving certain forms of income-qualifying assistance, who have to pay the pass-through; and

WHEREAS, the Board has unclaimed overcharge money available in the AEPHI Lawsuit Settlement Fund designated under Regulation 1271(B) for programs that benefit low- and/or moderate-income tenants.

NOW THEREFORE, BE IT RESOLVED that for each rental unit in which the tenancy began prior to January 1, 1999, for which a full registration fee is paid for Fiscal Year 2021, the landlord may, by serving legal notice pursuant to California Civil Code section 827, increase the rent by up to \$10.00 a month for twelve consecutive months, provided, however, that this partial registration fee pass-through shall not be considered part of the permanent rent ceiling for purposes of calculating the 2021 Annual General Adjustment; and

BE IT FURTHER RESOLVED that this twelve-month temporary general adjustment of up to \$10.00 may not be imposed prior to July 1, 2020, and, regardless of when first collected, shall terminate no later than December 31, 2021, unless extended by further Board action; and

BE IT FURTHER RESOLVED that the maximum increase shall not result in a pass-through greater than \$10.00 per month, and notice to tenants of any pass-through shall be on a form provided by the Board or use language approved by the Executive Director; and

BE IT FURTHER RESOLVED that the landlord shall be required to submit a copy of the above-referenced form to the Rent Board before collecting the pass-through; and

BE IT FURTHER RESOLVED that the Board instructs the Director to implement a program that reimburses low-income tenants with a household income at 50% or less of the AMI as calculated by HUD for the Oakland-Fremont, CA HUD FMR Area, or otherwise demonstrating proof of qualification in another state or federal program (including, but not limited to, CalWORKS, CalFresh, Medi-Cal, WIC) approved by the Director, for any pass-through of registration fees they incur as provided by Regulation 1271(B), which allows for distribution of unclaimed funds to benefit low-income tenants; and

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BE IT FURTHER RESOLVED that in order to fund the reimbursements to low-income tenants, the Director is authorized to spend up to an additional \$15,000 from the AEPHI Lawsuit Settlement Fund.

Dated: April 30, 2020

Adopted by the Rent Stabilization Board of the City of Berkeley by the following vote:

YES: Alpert, Chang, Mendonca, Poblet, Selawsky, Simon-Weisberg, Soto-Vigil, Tregub, Laverde

NO:

ABSTAIN:

ABSENT:

Paola Laverde, Chairperson
Rent Stabilization Board

Attest: _____
Matt Brown, Acting Executive Director