



**RENT STABILIZATION BOARD**  
**BUDGET & PERSONNEL COMMITTEE MEETING**

**Thursday, December 10, 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 **Budget & Personnel 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/97256267137?pwd=MHF4OTltOFIvUEg5VGphYTNwS0Z4UT09>. 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: 972 5626 7137 and Passcode: 566429. 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](mailto:mbrown@cityofberkeley.info) with the Subject Line in this format: "PUBLIC COMMENT ITEM FOR BUDGET & PERSONNEL 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**  
**BUDGET & PERSONNEL COMMITTEE MEETING**

**Thursday, December 10, 2020 – 5:00 p.m.**

**AGENDA**

1. Roll Call
2. Approval of Agenda
3. Public Comment
4. Approval of November 20, 2020 Meeting Minutes (Attached to Agenda)
5. Election of Committee Chair
6. Discussion and Possible Action on Measure MM implementation (See attached report)
7. Future agenda items
  - ➔ Mid-year Budget Review
  - ➔ Trainings and team-building exercises for Commissioners
  - ➔ Comparison of 2019 and 2020 counseling service request data
  - ➔ Increasing Commissioner Stipends
8. Discussion and Possible Action to set next Committee meeting
9. Adjournment

**STAFF CONTACT: Matt Brown, Acting Executive Director (510) 981-7368**

COMMITTEE: James Chang, Paola Laverde, John Selawsky, Leah Simon-Weisberg



Rent Stabilization Board

**RENT STABILIZATION BOARD**  
**BUDGET AND PERSONNEL COMMITTEE MEETING**  
**Thursday, November 20, 2020 – 5:00 p.m.**

**Meeting Minutes To Be Approved**

1. Roll call. Committee Chair Tregub called the meeting to order at 5:05 p.m.  
 Members present: Laverde, Simon-Weisberg, Soto-Vigil and Tregub.  
 Staff Present: Brown and Bursell
2. Approval of the agenda. M/S/C (Laverde/Simon-Weisberg) Motion to approve the Agenda. Roll call vote. YES: Laverde, Simon-Weisberg, Soto-Vigil and Tregub; NO: None; ABSTAIN: None; ABSENT: None. Carried: 4-0-0-0.
3. Public Comment. No public comment.
4. Approval of the November 6, 2020 Meeting Minutes (Attached to agenda) M/S/C (Laverde/Simon-Weisberg). Motion to approve the November 6, 2020 committee meeting minutes. Roll call vote. YES: Laverde, Simon-Weisberg, Soto-Vigil and Tregub; NO: None; ABSTAIN: None; ABSENT: None. Carried: 4-0-0-0.
5. Discussion and Possible Action on Process for FY 2020-21 Mid-Year Budget Review (See attachments). Matt Brown Acting Executive Director and Lief Bursell Senior Planner gave the committee an update, no action taken. Committee requested that staff update them on the number of service requests from March to December of 2020 and compare them to the number of requests from March to December of 2019.
6. Future agenda items  
 Committee agreed to discuss Measure MM implementation at their next meeting. Commissioner Soto-Vigil added “Increasing Commissioner Stipends”, as a potential future agenda item.
7. Discussion and Possible Action to set next committee meeting: The Committee agreed to meet next early in December 2020, and to arrange a specific date after the meeting.
8. Adjournment. M/S/C (Laverde/Simon Weisberg) Motion to adjourn. Roll call vote. YES: Laverde, Simon-Weisberg, Soto-Vigil and Tregub; NO: None; ABSTAIN: None; ABSENT: None. Carried: 4-0-0-0. Meeting adjourned at 5:52 p.m.

**STAFF CONTACT: Matt Brown, Acting Executive Director (510) 981-7368**

COMMITTEE: Paola Laverde, Leah Simon-Weisberg, Alejandro Soto-Vigil, Igor Tregub (Chair)



Rent Stabilization Board  
Office of the Executive Director

## MEMORANDUM

**DATE:** December 10, 2020

**TO:** Honorable Members of the Budget & Personnel Committee

**FROM:** Matt Brown, Acting Executive Director

**SUBJECT:** Recommendation to Implement Measure MM Requirements for Partially Covered Rental Units

### Recommendation

That the Budget & Personnel Committee recommend that the Board adopt a resolution clarifying that the Board will not impose a Fiscal Year 2021 annual registration fee on partially covered units. If there are any expenditures for services associated with registering, monitoring, and otherwise providing services for these units during the current fiscal year, those expenses will be folded into the fee for the Fiscal Year 2022 annual registration fee for partially covered units.

### 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.

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.<sup>1</sup>

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 only available for fully controlled rental 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 and over the next several months.<sup>2</sup> 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.

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<sup>1</sup> 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.

<sup>2</sup> Council will certify the results of the election for all local measures on December 15. The resultant laws and ordinance changes will become effective ten days thereafter.

### *Registration Unit*

After the initial outreach and rollout effort, the registration of partially exempt units will require similar effort from staff as required for the registration of controlled rental units because owners of partially covered units will provide the agency with similar information. The Registration Unit will send bills, register units, update owner and property manager information, and process payments just as they do for controlled rental units. Owners of partially controlled units will 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.<sup>3</sup>

### *Public Information Unit*

Owners, tenants, and property managers of partially covered units will 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 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.

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<sup>3</sup> Either way, under the current proposal Board staff would regularly collect and update all registration information for both controlled and partially covered rental 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 largely 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 currently unknown.<sup>4</sup> 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

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<sup>4</sup> Given that the Board has not collected information from these units in the past, we have no way of knowing the exact number of partially covered units that are rented and thus eligible for registration.

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 FY 2022. 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 2022 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 2022 budget process.

### **Proposal**

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 not adopt a registration fee prorated for the remainder of FY 2021. The primary tasks for the remainder of this fiscal year will be to identify and reach out to owners of partially covered rental units that will be required to register. To the extent the Board incurs additional costs associated with retrieval of this



registration information, the Board will be able to fold those expenses into the proposed fee for FY 2022.<sup>5</sup>

It would be very difficult to collect a fee for the remainder of FY 2021 given that we are in the process of developing a new database. Waiting until FY 2022 will allow staff to focus greater attention on gathering critical information to better understand the universe of the partially covered units that will necessarily have to pay a registration fee next year. Staff is concerned that trying to collect a fee from landlords who have not traditionally paid one so soon after the adoption of the ordinance changes will lead to uncertain compliance. Furthermore, the fee for partially covered units was not anticipated when the Board initially adopted its budget for FY 2021. Staff is concerned that there would need to be significant resources spent to pursue collection of this partial-year fee during a time when the Registration Unit is at its busiest preparing to collect the FY 2022 fee for the agency's entire operating budget.

### **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 during the next several months, so the Board has a clearer picture of the number of units that will be required to pay a registration fee for partially covered units.

Given that the number of partially covered rental units required to register is currently unknown, staff recommend using this time to identify, communicate with property owners, and attempt to collect registration information for as many of these units as possible. When the number of partially covered units and anticipated compliance level is better known, a full fee study will be prepared as part of the FY 2022 budget process. Staff seek the Committee's comment and feedback on this proposal.

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<sup>5</sup> Moreover, if the Board incurs extra expenses associated with the services provided to these partially covered units, those expenses, too, may be folded into the FY 2022 Registration Fee for partially covered units.

## **RESOLUTION 20-23**

### **IMPLEMENTATION OF REGISTRATION FOR PARTIALLY COVERED UNITS DUE TO AMENDMENTS TO RENT ORDINANCE MANDATED BY MEASURE MM**

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

**WHEREAS**, the Rent Stabilization Board, pursuant to the requirements set forth in Berkeley Municipal Code (BMC) Section 13.76.080, has always collected an annual Registration Fee from landlords to fully fund its operational budget and expenses; and

**WHEREAS**, the Rent Ordinance previously only permitted the Board to charge a Registration Fee to rent-controlled units; and

**WHEREAS**, many rental units in Berkeley have previously been partially covered under the law and subject to the deposit interest (BMC Section 13.76.070) and “good cause” eviction protection (BMC Section 13.76.130) sections of the Rent Ordinance but not the registration (BMC Section 13.76.080) or rent control (BMC Sections 13.76.100, 13.76.110, and 13.76.120) sections of the ordinance; and

**WHEREAS**, Measure MM, which was placed on the general election ballot by the Berkeley City Council on July 30, 2020, and subsequently passed by the voters on November 3, 2020, now requires the Board to register certain partially covered rental units, including: rented single-family homes, condominiums, and newly-constructed units; and

**WHEREAS**, with the Board’s approval through this Resolution, Board staff will now be able to offer a number of services previously unavailable to tenants and landlords of these units including, but not limited to counseling regarding: evictions and security deposits, the Berkeley Emergency Response Ordinance, the local eviction moratorium (BMC Section 13.110), 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-

## **RESOLUTION 20-23**

### **IMPLEMENTATION OF REGISTRATION FOR PARTIALLY COVERED UNITS DUE TO AMENDMENTS TO RENT ORDINANCE MANDATED BY MEASURE MM (Page 2)**

Term Rental Ordinance; and

**WHEREAS**, in addition to counseling, Board staff will be able to offer owners and tenants of partially covered units webinars and workshops that cover topics such as evictions, security deposits, and other relevant local and state laws that affect tenancies in partially covered rental units; and

**WHEREAS**, the Board adopted a budget, staffing model, and expenditure level to cover all operational costs for the 2020/2021 Fiscal Year on June 18, 2020; and

**WHEREAS**, the Board did not account for any revenue being generated from units that would be subject to registration requirements pursuant to Measure MM at the time it adopted the budget on June 18, 2020; and

**WHEREAS**, the amendments to the law (BMC Section 1.76.080L.) require that units subject to the requirements of Measure MM be registered within 60 days of coming under coverage of this chapter; and

**WHEREAS**, Measure MM contemplated a prorated fee for partially covered units that would be covered by the new requirements of the law; and

**WHEREAS**, Board staff has indicated that they do not have an accurate number of units that will be required to register their partially covered units given that the Board has never collected registration information from these units in the past; and

**WHEREAS**, staff is currently gathering as much information as possible on partially covered units to ascertain whether they may be covered by the new registration requirements mandated by Measure MM; and

## **RESOLUTION 20-23**

### **IMPLEMENTATION OF REGISTRATION FOR PARTIALLY COVERED UNITS DUE TO AMENDMENTS TO RENT ORDINANCE MANDATED BY MEASURE MM (Page 3)**

**WHEREAS**, staff believes it will have a much more accurate count of the partially covered units that will be subject to the registration requirements by April of 2021 after staff is able to do more research and communicate with the landlords of these units; and

**WHEREAS**, the Board will be billing owners of partially covered units for the first time so there is very little assurance of how many owners will comply with the new registration requirements; and

**WHEREAS**, the Board has contracted with a company to craft an entirely new registration database; and

**WHEREAS**, the Board did not plan for any collection of revenue from the partially covered units now subject to registration requirements due to Measure MM when it adopted its operating budget for this fiscal year; and

**WHEREAS**, the Board will collect fees to fund the necessary expenditure level to support the agency when it adopts Registration Fees for controlled and partially covered units for the 2021/2022 Fiscal Year sometime in April or May, 2021; and

**WHEREAS**, the Board's Registration Unit pursues compliance for all units that fail to timely register; and

**WHEREAS**, the fee that would be charged for the partially covered units for the remainder of the current fiscal year would be relatively insignificant as it relates to the collection of revenue to support the agency's operations; and

**WHEREAS**, pursuing landlords who fail to comply with Registration Fee payment is very time-consuming; and

## **RESOLUTION 20-23**

### **IMPLEMENTATION OF REGISTRATION FOR PARTIALLY COVERED UNITS DUE TO AMENDMENTS TO RENT ORDINANCE MANDATED BY MEASURE MM (Page 4)**

**WHEREAS**, compliance efforts directed at landlords who are delinquent in their payment of a partial year fee will necessarily take staff time away from preparing the agency's annual billing process; and

**WHEREAS**, during the next several months staff will be able to gather far more accurate data regarding which partially exempt units must pay the fee for the upcoming 2021/2022 Fiscal Year; and

**WHEREAS**, at its December 10<sup>th</sup> meeting, the Budget & Personnel Committee voted to recommend that the Board not adopt a fee for partially exempt units for the remainder of the current fiscal year;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Berkeley Rent Stabilization Board hereby establishes that it will not charge a Registration Fee for partially covered residential rental units for the remainder of the 2020/2021 Fiscal Year; and

**BE IT FURTHER RESOLVED** that any additional expenses associated with registering or providing services for partially exempt units during the remainder of the current fiscal year shall be considered and potentially increase the Registration Fee for partially exempt units for the 2021/2022 Fiscal Year; and

**BE IT FURTHER RESOLVED** that Board staff will now be able to offer a number of services previously unavailable to tenants and landlords of these units including, but not limited to counseling regarding: evictions and security deposits, the Berkeley Emergency Response Ordinance, the local eviction moratorium (BMC Section 13.110), the state eviction moratorium (AB 3088), the statewide anti-rent-gouging law (AB 1482), the Tenant Buyout Ordinance, the

**RESOLUTION 20-23**

**IMPLEMENTATION OF REGISTRATION FOR PARTIALLY COVERED UNITS DUE TO AMENDMENTS TO RENT ORDINANCE MANDATED BY MEASURE MM (Page 5)**

Relocation Ordinance, the Rental Housing Safety Program, and the Short-Term Rental Ordinance; and

**BE IT FURTHER RESOLVED** that the Board directs staff to use the time remaining prior to the collection of next year's annual registration billing to collect as much information as possible from partially exempt units that are now subject to registration requirements, so that the Board has as accurate information as possible for the 2021/2022 Fiscal Year registration process.

Dated: December 17, 2020

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

YES:

NO:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Chair  
Rent Stabilization Board

Attest: \_\_\_\_\_  
Matt Brown, Acting Executive Director