



Rent Stabilization Board

RENT STABILIZATION BOARD
EVICITION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

Tuesday, October 6, 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 **Eviction / Section 8 / Foreclosure 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/97222335829?pwd=Vk44a041ckdGTmg5dDIWUk9WcTB6Zz09>. 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 2233 5829 **and Passcode:** 515557. 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 msiegel@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM FOR EVICTION/SECTION 8 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
EVICITION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

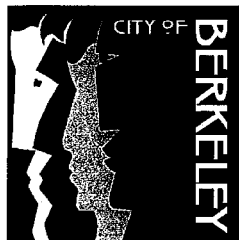
Tuesday, October 6, 2020 – 5:30 p.m.

AGENDA

1. Roll call
2. Approval of the Agenda
3. Election of Chair
4. Approval of Minutes of the September 3, 2019 meeting
5. Public Comment
6. Discussion and possible action regarding distressed properties report
7. Discussion and possible action regarding Ellis Bill report
8. Future Agenda Items
9. Confirm next meeting date (Commissioners, please bring calendars to meeting)
10. Adjournment

STAFF CONTACT: Matthew Siegel – (510) 981.4903

COMMITTEE: Mari Mendonca, John Selawsky, Leah Simon-Weisberg, Igor Tregub



Rent Stabilization Board

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair-accessible location. To request disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact Aimee Mueller at 981-4932 or 981-6903 (TDD) *at least three business days before* the meeting date.

Please refrain from wearing scented products to this meeting.

RENT STABILIZATION BOARD
EVICTION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

Tuesday September 3, 2019 – 4:30 p.m.
2001 Center St., Law Library 2nd Floor

MINUTES (Unapproved)

1. Roll call at 5:05 p.m.

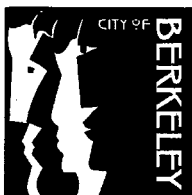
Members present: Poblet/ Selawsky

Absent: Soto-Vigil

Staff present: M. Siegel

Soto-Vigil arrived 5:15 p.m.

2. Approval of the Agenda: m/s/c: Selawsky/Poblet: 2-0-0-1
3. Approval of Minutes of May 13, 2019 Meeting: m/s/c: Selawsky/Poblet 2-0-0-1
4. Public Comment: One member of the public.
5. Discussion and possible action regarding Distressed Properties: Report was distributed to committee. No action taken.
6. Discussion and possible action regarding proposals by contract providers for services: Staff provided update of proposals. No action taken.
7. Discussion and possible action regarding July 18, 2019 presentation to Board by William Wilkins, Executive Director, Berkeley Housing Authority: Announced that BHA Director William Wilkin had passed away. Committee agreed to table item for time being.
8. Future Agenda Items: OMI Report; City of Berkeley “Stairs” Program in conjunction with BACS.
9. Confirm next meeting date: Meeting set for November 5, 2019 @ 5:00 p.m.
10. Adjournment: Meeting adjourned 5:30 p.m.



Rent Stabilization Board
Legal Department

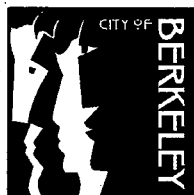
Once each month, the Rent Board receives a list of properties in the City of Berkeley that are going through foreclosure proceedings. The list is reviewed and an informational letter is sent to the occupants of each residential unit on any property appearing on the list for the first time. The letter informs the occupants that foreclosure is not a good cause for eviction. Beginning in March 2009, letters have been mailed to the following number of units on properties in foreclosure:

	Month -----	# of letters mailed -----
2009	March	301
	April	18
	May	53
	June	23
	July	16
	September	55
	October	33
	November	51
	December	21
2010	January	43
	February	(list not available)
	March	(list not available)
	April	71
	May	19
	June	43
	July	23
	August	14
	September	77
	October	17
	November	12
	December	56
2011	January	15
	February	21
	March	(list not available)
	April	45
	May	22
	June	18
	July	65
	August	22
	September	(list not available)
	October	(list not available)
	November	(list not available)
	December	95
2012	January	54
	February	54
	March	(list not available)

	Month	# of letters mailed
	-----	-----
	April	23
	May	11
	June and July	(list not available)
	August	58
	October	15
	November	23
	December	27
2013	January	3
	February	14
	March	0 (only 1 new address which is owner occupied)
	April	5
	May	(list not available)
	June	19
	July	16
	August	23
	September	13
	October	16
	November	4
	December	2
2014	January	1
	February	16
	March	9
	April	46
	May	19
	June	17
	July – September	(list not available)
	October	44
	November	(list not available)
	December	37 (letters mailed 2/17/15)
2015	January	23
	February	18
	March	6
	April	8
	May	13
	June	57
	July	7
	August	10
	September	8
	October	14
	November	4
	December	31
2016	January	9
	February	13
	March	18
	April	6
	May	8
	June	7
	July	5

	Month	# of letters mailed
	-----	-----
2016	August	8
	September	19
	October	18
	November	7
	December	7
2017	January	11
	February	9
	March	22
	April	5
	May	5
	June	4
	July	6
	August	3
	September	3
	October	14
	November	3
	December	10
2018	January	8
	February	13
	March	6
	April	10
	May	7
	June	4
	July	10
	August	7
	September	2
	October	none (no new addresses)
	November	20
	December	3
2019	January	1
	February	5
	March	6
	April	5
	May	4
	June	4
	July	3
	August	2
	September	1
	October	8
	November	2
	December	12
2020	January	5
	February – May	27
	June – July	9

Updated: 8/19/2020



**Rent Stabilization Board
Office of the Executive Director**

DATE: October 6, 2020
TO: Honorable Members of the Eviction/Section 8/Foreclosure Committee
FROM: Matthew Siegel, Staff Attorney
SUBJECT: Summary of Ellis Act Evictions (1986 – 6/1/2020)

Background

The origins of the Ellis Act (Gov't Code sections 7060 *et seq.*; "the Act.") are found in *Nash v. City of Santa Monica* (1984) 37 Cal.3d 97. The plaintiff in *Nash* argued that rent control was a form of indentured servitude, and it was unconstitutional to force him to continue as a landlord by not being able to evict his tenants at will. The California Supreme Court disagreed and found that a city's interest in maintaining adequate rental housing outweighed a landlord's interest in demolishing his residential rental property provided the landlord was receiving a fair return on his investment. In 1985, in direct response to the *Nash* decision, the Legislature adopted the Ellis Act which provides that: "[n]o public entity . . . shall . . . compel the owner of any residential real property to offer, or to continue to offer, accommodations in the property for rent or lease." (Gov't Code §7060(a).) Thus, the Act gives property owners an absolute right to leave the residential landlord-tenant business. Accordingly, a claim that a landlord is going out of the residential rental business is good cause for eviction. The Ellis Act does not expressly create new or additional rights to change the use of the property after the property owner regains possession of the rental units and, in fact, allows cities to maintain control over most land use issues.

In an attempt to insure that this right to evict sitting tenants is not abused, the Act authorizes a municipality to place the following constraints on a property that has been removed from the residential rental market. The City Council codified Berkeley's various restrictions in the Ellis Implementation Ordinance (Berkeley Municipal Code Section 13.77):

- For all tenancies commenced within 5 years of the date of filing of the notice of intent to withdraw accommodations from rent or lease or the date the accommodations were withdrawn from the market, whichever is later, the accommodation must be rented at the lawful rent in effect at the time the notice is filed, plus the annual adjustments granted by the Berkeley Rent Board. (B.M.C. 13.77.040A.)

- If the accommodations are rented within 2 years of being withdrawn from the rental housing market, the owner shall be liable to the displaced tenants for actual and punitive damages. (B.M.C. 13.77.040B.)
- If the accommodations are re-rented within 10 years of the date of withdrawal, the accommodation must first be offered to the displaced tenant(s). (B.M.C. 13.77.040C.)
- In addition, the Condominium Conversion Ordinance prohibits owners from applying to convert the building to condominiums for at least 10 years following the filing of an Ellis notice. (B.M.C. 21.28.060C. and 21.28.090B.)

The Ellis Act and Implementation Ordinance authorize accommodations to be withdrawn from the market following at least 120 days' notice to the tenants. (Gov't Code §7060.4(b). and B.M.C. 13.77.050A.1.) The date of withdrawal is extended to one year for tenants who are disabled or 62 years of age or older, have lived in the unit for at least one year and have timely notified the owner of qualification for this extended notice period. (Gov't Code §7060.4(b). and B.M.C. 13.77.050A.8.)

The Ellis Implementation Ordinance has been revised several times throughout the years to account for changes in state law and to adjust relocation benefits. In the ordinance, the Council initially established relocation benefits of \$4,500, an amount that tracked the original relocation benefits given to low-income tenants who are displaced due to owner move-in evictions. In subsequent years, Council has revised the Ellis Implementation Ordinance to remove the requirement that a household be low-income to receive relocation benefits. These were adjusted by Council in December of 2016 increasing the relocation benefits to \$15,000 per household with an additional \$5,000 available to households that qualify as low-income or include disabled or elderly tenants, minor children, or a household with a tenancy that began prior to January 1, 1999. Commencing in 2018, the relocation benefits now increase in an amount based on the Consumer Price Index.

At the request of the Council and as permitted under City of Berkeley Charter Article XVII Section 123(4), the Rent Board monitored compliance with the Ellis Act from 1986-1991. From 1991 through 1999 the City administered the Ellis Act. The Board resumed monitoring compliance in 2000. The Board counsels landlords and tenants regarding the Ellis Act; receives and reviews all Ellis notices; contacts tenants following receipt of notices; holds the relocation funds in escrow and distributes funds at the appropriate time; files the notice of constraints with the County; and continues to monitor rental occupancy of units that were withdrawn from the rental market on a periodic basis.

Ellis Bill filings in the city have remained fairly low the past few years compared to cities such as San Francisco and Los Angeles which have experienced exponentially greater Ellis Act filings. In 2015 there were filings for six properties totaling twenty-one units; for 2016 there were three properties totaling eleven units; for 2017 there were four properties totaling thirteen units and for 2018 there were six filings totaling twenty-six units. For 2019 there was one filing which has since been rescinded. There have been no filings for 2020. This is compared to filings

in the early 2000's which saw 40 filings representing 113 units over a span from 2001 through 2004.

The following data is taken from the Board's and City's Ellis Act files:

Ellis Bill Filings Since July 1986

Calendar Year	# of Properties Filed	Total Number of Units	Comments
1986	1	6	
1987	3	7	
1988	2	5	
1989	8	19	
1990	14	52	12 unit bldg
1991	8	18	
1992	6	23	
1993	6	26	12 unit bldg
1994	2	2	
1995	2	4	
1996	2	19	12 unit bldg
1997	4	5	
1998	3	4	
1999	4	7	
2000	2	5	
2001	18	51	
2002	9	24	
2003	8	17	
2004	6	21	
2005	2	3	
2006	7	26	
2007	4	8	
2008	6	11	
2009	2	8	
2010	2	11	
2011	0	0	
2012	0	0	
2013	2	7	
2014	3	10	
2015	6	21	
2016	3	11	
2017	4	13	
2018	5	13	
2019	0	0	
2020*	0	0	
Totals	154	457	

*Totals through June 1, 2020

Size of the Buildings Taken off the Market

Number of Units in Bldg	Total Ellis Filings	% of Total Filings
1 Unit	48	31%
2 Units	37	24%
3 Units	20	13%
4 Units	21	14%
5 Units	5	3%
6 Units	12	8%
7 Units	4	3%
8 Units	3	2%
9 Units	1	0.6%
10 Units	0	n/a
11-15 Units	3	2%
16 or More Units	0	n/a

ELLIS RELOCATION BENEFITS

Berkeley	\$15,585 for all households \$5,195 additional for any household with disabled, elderly, low-income, long-term or tenant with minor child
San Francisco	Up to \$7,230.41 per tenant (\$21,691 max per household) depending on when filed ¹ Add up to \$4,820 for each elderly or disabled tenant
Santa Monica	Studio \$16,500 (\$17,200 for disabled, elderly, family with minor) 1 Bedroom \$22,700 (\$24,250 for disabled, elderly, family with minor) 2+ Bedrooms \$31,550 (\$33,650 for disabled, elderly, family with minor)
West Hollywood	Studio \$7,840 1 Bedroom \$11,070 2 Bedroom \$14,911 3+ Bedrooms \$119,679 Disabled/elderly/terminally ill/moderate income or minor child – \$20,753 Low-income \$26,133