



RENT STABILIZATION BOARD
BUDGET & PERSONNEL COMMITTEE MEETING

Tuesday, June 1, 2021

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/91749712513?pwd=Y08raGkxOEdvWDB0MWYzQ2Z0U3o0Zz09> . 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: 917 4971 2513 and Passcode: 790688. 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 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

Tuesday, June 1, 2021 – 5:00 p.m.

AGENDA

1. Roll Call
2. Approval of Agenda
3. Public Comment
4. Approval of the April 22, 2021 Meeting Minutes (Attached to Agenda)
5. Approval of the April 27, 2021 Meeting Minutes (Attached to Agenda)
6. Registration Fee Update
7. Discussion, and Possible Action regarding Recommendation to full Board to Adopt Fiscal Year (FY) 2021/22 Line-Item Budget, Staffing Model & Expenditure Level (See Attached Staff Report).
8. Future agenda items
9. Discussion and Possible Action to set next Committee meeting
10. Adjournment

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

COMMITTEE: James Chang, John Selawsky (Chair), Leah Simon-Weisberg, Dominique Walker



Rent Stabilization Board

RENT STABILIZATION BOARD

BUDGET & PERSONNEL COMMITTEE MEETING

Thursday, April 22, 2021 – 5:00 p.m.

Meeting Minutes To Be Approved

1. Roll Call: Committee Chair Selawsky called the meeting to order
M Brown called Roll.
Members Present; Chang, Selawsky and Simon-Wiesberg. Walker was absent
Staff Present: M. Brown and L. Bursell.
2. Approval of Agenda: M/S/C (Simon Wiesberg/Chang) Motion to approve the Agenda.
Roll call vote. YES: Chang, Selawsky and Simon-Weisberg; NO: None; ABSTAIN:
None; ABSENT: Walker. Carried: 3-0-0-1.
3. Public Comment: Two public comments.
4. Approval of March 25, 2021 Meeting Minutes (Attached to Agenda): M/S/C (Simon-
Wiesberg/Chang). Motion to approve the March 25, 2021 committee meeting minutes.
Roll call vote. YES: Chang, Selawsky and Simon-Weisberg; NO: None; ABSTAIN:
None; ABSENT: Walker. Carried: 3-0-0-1.
5. Update, Discussion and Possible Action regarding adding a General Counsel Position to
the Staffing Model (See Attached Staff Report): Acting Executive Director Matt Brown
discussed the attached staff report including updates from the Human Resources
Department affirming the Rent Board's Authority to hire a General Counsel. M/S/C
(Simon-Wiesberg/Chang). Motion to adopt a staffing model that includes a General
Counsel Position replacing the Staff Attorney III position and the addition of one more
Staff Attorney to the Legal Unit. Roll call vote. YES: Chang, Selawsky and Simon-
Weisberg; NO: None; ABSTAIN: None; ABSENT: Walker. Carried: 3-0-0-1.
6. Discussion and Possible Action regarding Hiring a Temporary Worker to assist the
Registration Unit with extra Customer Service and Data Entry work associated with
Measure MM implementation.: M/S/C (Simon-Wiesberg/Chang). Motion to hire a
Temporary Worker to assist the Registration Unit with extra Customer Service and Data
Entry work associated with Measure MM implementation from May 17, 2021 – July 17,
2021. Roll call vote. YES: Chang, Selawsky and Simon-Weisberg; NO: None;
ABSTAIN: None; ABSENT: Walker. Carried: 3-0-0-1.

7. Discussion and Possible Action regarding the modification and extension of the existing Contract with the Centre for Organization Effectiveness. (See Attached Staff Report): M/S/C (Simon-Wiesberg/Chang). Motion to recommend to the Full Board the modification and extension of the existing Contract with the Centre for Organization Effectiveness. Roll call vote. YES: Chang, Selawsky and Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: Walker. Carried: 3-0-0-1.
8. Future agenda items: The Committee agreed to discuss these items at the next committee meeting
 - ➔ Comparison of 2019 and 2020 counseling service request data
 - ➔ Increasing Commissioner Stipends
9. Discussion and Possible Action to set next Committee meeting: The Committee agreed to meet on the Tuesday, April 27, 2021 at 8:30 a.m.
10. Adjournment: M/S/C (Chang/Selawsky). Motion to Adjourn. Roll call vote. YES: Chang, Selawsky and Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: Walker. Carried: 3-0-0-1. Meeting adjourned at 6:06 p.m.

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

COMMITTEE: James Chang, John Selawsky (Chair), Leah Simon-Weisberg, Dominique Walker



Rent Stabilization Board

RENT STABILIZATION BOARD
BUDGET & PERSONNEL COMMITTEE MEETING

Tuesday, April 27, 2021 – 8:30 a.m.

Meeting Minutes To Be Approved

1. Roll Call: Committee Chair Selawsky called the meeting to order.
M Brown called Roll.
Members Present; Chang, Selawsky, Simon-Wiesberg and Walker.
Staff Present: M. Brown and L. Bursell.
2. Approval of Agenda: M/S/C (Selawsky/Simon Wiesberg) Motion to approve the Agenda. Roll call vote. YES: Chang, Selawsky, Simon-Weisberg and Walker; NO: None; ABSTAIN: None; ABSENT: None. Carried: 4-0-0-0.
3. Public Comment: Five public comments.
4. Update, Discussion and Possible Action on Measure MM Fee Requirements for Rental Units in Various Affordable Housing Projects (See Attached Staff Report): M/S/C (Simon Wiesberg/Walker) Motion to charge housing providers who receive Housing Trust Fund Grants and qualify for Measure MM registration a reduced fee of \$37 per unit for FY 2021/2022 which includes a recovery of cost for FY 2020/2021. Roll call vote. YES: Chang, Selawsky, Simon-Weisberg and Walker; NO: None; ABSTAIN: None; ABSENT: None. Carried: 4-0-0-0.
5. Future agenda items:
 - ➔ Comparison of 2019 and 2020 counseling service request data
 - ➔ Increasing Commissioner Stipends
6. Discussion and Possible Action to set next Committee meeting: Simon-Weisberg left at 9:33 a.m. The Committee agreed to meet on Thursday, May 27, 2021 at 5:00 p.m.
7. Adjournment: M/S/C (Selawsky/Walker). Motion to Adjourn. Roll call vote. YES: Chang, Selawsky and Walker; NO: None; ABSTAIN: None; ABSENT: Simon-Weisberg. Carried: 3-0-0-1. Meeting adjourned at 9:36 a.m

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

COMMITTEE: James Chang, John Selawsky (Chair), Leah Simon-Weisberg, Dominique Walker



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: June 1, 2021

TO: Honorable Members of the Budget & Personnel Committee

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

SUBJECT: Adoption of FY 2021/22 Line-Item Budget, Staffing Model & Expenditure Level

Recommendation:

That the Board adopt a resolution approving the FY 2021/22 line-item budget and staffing model of 24.55 FTE career employees (25.05 FTE including temporary employees) and authorizing an overall spending level of \$6,020,950, which includes \$213,000 in expenditures from the Board's Capital Reserve.

Background and Need for Rent Board Action

Legally, the Board has through the end of June to adopt a staffing model and budget with a maximum expenditure authorization for FY 2021/22. The process for adopting the annual budget is guided by the Budget and Personnel Committee, which has met six times in calendar year 2021 in order review the status of the budget, the composition of the staffing model, and the revenues and expenditures that are projected in the coming year.

When adopting its budget for the current fiscal year, the Board elected to include a formal mid-fiscal year budget review as part of the budget process for the first time. This was done in order to allow for any necessary adjustments to the budget if revenues were impacted significantly by the COVID-19 pandemic. The Board received the FY 2021/22 mid-fiscal year budget report at its February 18, 2021 meeting and, after reviewing the status of the budget, elected to amend the staffing model to add a new permanent housing counselor position to add capacity to provide additional services associated with Measure MM.

The Board also discussed its budget, as well as the projected expenditure level for next fiscal year, at its May 6, 2021 meeting. At this meeting, the Board voted to utilize some of its uncommitted reserve in order to maintain the annual registration fee at \$250 per unit and avoid raising the fee at a time when the rental housing market is still experiencing the economic impacts of the COVID-19 pandemic. The Board felt comfortable going an additional year without adjusting the fee because of Fund 440's larger than expected uncommitted reserve balance, caused by both ongoing vacancies in several previously-budgeted positions and better than anticipated registration fee revenues.

In addition to passing the standard registration fee for fully-covered, controlled rental units, the Board considered the appropriate annual registration fee level for Measure MM units for the first time. Measure MM requires that the Board set a registration fee and imposes registration requirements on certain partially covered, rented single-family homes, condominiums, and units defined as new construction under B.M.C. Sections 13.76.040Q and 13.76.050I. The Board voted to set the Measure MM unit registration fee at a total of \$150 per unit a base fee of \$100 per unit, and an additional \$50 fee to recover FY 2020/21 implementation costs. The Board also passed a lower \$37 per unit fee for certain rental units subject to affordable housing restrictions that are required to register under Measure MM.

The Board adopted the Measure MM fee based on an estimate that 4,000 units will qualify for registration, however there is still a lot of uncertainty regarding the actual number of units that qualify for registration under these new requirements. Berkeley has not implemented a larger scale initial registration effort in nearly 40 years and staff recommend that the Board do not assume a high initial compliance rate for these units in FY 2021/22. The impact to staff capacity of providing increased services to qualifying Measure MM units is also an unknown that staff will continue to monitor.

For the reasons above, staff recommends a somewhat conservative approach which projects a lower compliance rate of only 50% for Measure MM unit registration in this first year. The Board can then review and make any needed adjustments based on actual compliance during its formal mid-fiscal year budget review early in calendar year 2022. The mid-fiscal year budget review process was successful in allowing the board to make changes to the adopted budget in response to the passage of Measure MM. Staff recommends the Board make the mid-fiscal year review a permanent part of its annual budget process going forward to provide a formal opportunity to adjust services when actual revenues are known, and respond to any changes that take place in the first six months of the fiscal year.

Update on Measure MM Registration

Earlier this year, staff sent letters to roughly 9,000 units informing them of the new Measure MM registration requirements. This resulted in a total of 1,709 units being registered as rented or available for rent (1,323 with active tenancies, and 326 vacant but available units). On May 17, the Measure MM registration fees were posted for approximately 6,100 units in about 1,825 properties. This group was comprised of 1,565 single-family homes and 258 multi-family homes. Registration bills were mailed to the properties in two batches, the second batch posted on Tuesday, May 25, 2021.

Staff and the Budget and Personnel Committee will continue to monitor the status of FY 2021/22 Measure MM registration and will provide ongoing updates to the Board after the July 1, 2020 deadline has passed.

Final FY 2019/20 Year-end Fund Balance

On April 21, 2021 staff received a preliminary copy of the independent auditor's report on the Board's financial statements for FY 2019/20. The auditor's report states that the Rent Board's year-end revenue for FY 2020 was \$5,066,705 and that its year-end expenditures were \$5,130,732, resulting in an overall \$64,027 reduction to the Board's uncommitted reserve. Staff reviewed the outside auditor's calculations and they match with our internal records. Review of the audit results in an overall revenue decrease of just over \$27,000 when compared to the

preliminary estimate the Board received during its mid-fiscal year budget review. The Board's actual uncommitted reserve stood at \$1,060,135 at the end of the previous fiscal year. Almost all of this \$27,000 change is due to duplicate registration fee charges that were initially counted twice and then corrected early this fiscal year.

During this past registration cycle there was a brief period where the agency's online payment's system was malfunctioning immediately after the IT Department performed a software upgrade. This problem was resolved relatively quickly and all payments were processed, but staff later learned it resulted in \$328,327 of FY 2020/21 revenue being counted incorrectly as FY 2019/20 revenue. Staff attempted to correct this error in time for it to be adjusted in the Board's official financial statements but these records cannot be amended after August, and staff had not fully verified the exact amount of this error until the fall. Extra time was needed to review each deposit and verify the exact amount of revenue incorrectly deposited into the previous year's registration fee account.

When the outside auditor's report is finalized it will show that Rent Board FY 2019/20's revenue is \$328,327 higher than shown in the attached budget documents. For budgetary purposes it is better for clarity and future planning to represent it as revenue in FY 2020/21, even though it is technically counted revenue from the previous fiscal year in the Board's official financial statements.

3rd Quarter Update on FY 2021 Budget Status and Year-End Projections

The agency's Mid-Fiscal Year 2021 Budget Report projected that total FY 2020/21 expenditures will be around \$800,000 lower than what the Board authorized in its adopted budget. While this is due in part to better than anticipated revenues, it is mostly the result of decreases in expenditures that come most significantly from salary savings due to the unfilled permanent Executive Director and Deputy Director positions. Expenditures from the capital reserve for the ongoing Rent Tracking System (RTS) replacement project have also been mostly delayed until next fiscal year when it is anticipated that the agency's database will fully transition to 3Di, Inc's software platform.

At the end of the 3rd quarter of FY 2020/21 (as of March 31, 2021), the agency's total revenue was \$4,912,917 and total expenditures were \$3,669,770. Staff have updated year-end projection to account for the addition of a new housing counselor, increased costs of the additional outreach and mailings to Measure MM properties, and the hiring of a temporary worker to assist with Measure MM unit registration. Staff now project that total FY 2021 expenditures will end at around \$5,184,000, and total FY 2021 revenue projects at \$4,950,000.

Overall, the Board projects to deficit spend by around \$235,000 this fiscal year and it should start next fiscal year with an uncommitted fund balance of around \$835,000, which is over 14% of projected FY 2021/22 recurring expenditures. The Board also projects to have close to \$490,000 in its capital reserve, most of which has already been earmarked for the RTS replacement project and to scan the agency's property files.

Programmatic Accomplishments in FY 2021

Responding and adjusting to the ongoing COVID-19 pandemic has made this past year uniquely challenging for both the Board and the Program. Providing all of the program's services remotely for an entire fiscal year, adjusting outreach to constant changes to state law associated

with the eviction moratorium, while stretching our resources to implement the new registration requirements associated with Measure MM, are a few examples of the major challenges the Board and staff have faced. In addition to these new challenges the agency has continued to maintain its focus and energy on performing its core services to the tenants and landlords of Berkeley. The program's core services are as follows:

1. Regularly communicating with Berkeley's 50,000 plus tenants and 2,800 landlords to ensure they are aware of the protections, requirements and services under the Rent Stabilization and Eviction for Good Cause Ordinance.
2. Providing counseling and other direct services to over 1,000 clients per month who call, and email for advice and assistance. Due to the COVID-19 pandemic, we did not provide in-person counseling services this past fiscal year, but we did meet with some clients using video conferencing technology. At the Board's direction, agency staff also spent considerable time reaching out to the community through seminars and workshops, all of which were conducted remotely. The vast majority of these contacts are with Berkeley property owners and tenants.
3. Fully transitioning to remote administrative hearings and mediations using the Zoom platform on March 26, 2020, only days after the Shelter in Place Order was initially issued. Staff has held dozens of hearings through May 2021 adhering to the same pre-pandemic time frames for petition processing and scheduling.
4. Maintaining accurate records on the rents and services of over 20,000 rental units in the City of Berkeley and processing payments, changes in tenancy and exempt status, and requests for penalty waivers for all units covered by the Ordinance.
5. Guiding policy, transparency and governance: Historically 2-3 FTE are dedicated to providing policy, administrative, legal and logistical support directly for the Board and its committees. The past several years, this has increased somewhat as we address appropriate responses to the housing affordability crisis.

The vast majority of our resources are dedicated to the multitude of tasks involved in carrying out the five essential "core" areas of work listed above. Providing these services at a high level is the primary way in which we carry out the purpose and mission of the Ordinance articulated in Section 120 of the City Charter:

"The purpose of this article is to provide for proper administration of programs to regulate residential rents; to protect tenants from unwarranted rent increases and arbitrary, discriminatory or retaliatory eviction; to help maintain the diversity of the Berkeley community; and to ensure compliance with legal obligations relating to the rental of housing."

In addition to these "core" areas of work, the agency was tasked with two major projects this past fiscal year that took significant energy, time and focus from our staff. The first was the implementation of the new registration requirements required due to the passage of Berkeley's Measure MM. Identifying potentially qualifying properties, developing new registration processes and procedures, and working with 3Di to create a new registration and online-payments platform has taken a substantial effort from staff, and launching the Measure MM registration portal on schedule in May was a significant accomplishment.

Before Measure MM passed in November, the agency had already contracted with 3Di, Inc. to develop an integrated software solution to replace the program's existing RTS database. Work on this contract and requirements gathering has been ongoing throughout this entire fiscal year. Board processes for registration, fee waivers, and calculating penalties are particularly complex

and have required a lot of back and forth between staff and 3Di, Inc's project team. While the agency's focus shifted due to Measure MM, work on the full RTS replacement project has continued to proceed in the background and will be a major focus next fiscal year.

The agency has also dedicated time to ensuring a successful transition to a new, permanent Executive Director. In October 2020, the Board hired Keren Stashower to complete an executive transition assessment. Ms. Stashower surveyed and interviewed both Board members and staff, and presented the findings of the assessment to the Board at its March 17, 2021 meeting.

The executive transition assessment identified six areas of focus for the hiring of a new, permanent Executive Director. The following three areas were identified as existing agency strengths: 1) Board development and support; 2) Protection and implementation of the Rent Stabilization Ordinance; and 3) Rent Stabilization Board advocacy. The final three areas were identified for potential agency growth/improvement: 1) Internal structure and processes; 2) Strategy and direction; and 3) People engagement and development.

On May 6, 2021 the Board authorized an additional contract with Ms. Stashower to support the agency as it looks to build on its current strengths and work on the areas for growth identified in the executive transition assessment. Staff have begun to work with Ms. Stashower to address these growth opportunities through an agency wide strategic planning effort, the prioritization of organizational trainings, and the creation of processes to improve project management. In order to allow staff time to work on these internal improvements, the Board authorized staff to close the office on the 2nd and 4th Wednesdays of the month.

In addition to these major internal and external projects, the agency has continued its ongoing efforts to fulfill the Board's charge under the City Charter. The Board has continued to work with Council to promote important legislation that directly relates to the work agency staff perform to achieve the goals articulated in both the Charter and Rent Ordinance itself. Over the course of the last several years, the Board has taken a particularly holistic approach to addressing needs associated with community stability and ensuring that the most vulnerable members of the city have access to services that promote safe and decent housing. To that end, the Board has continued to increase contact with both the Council and other City departments in an effort to streamline important services for both landlords and tenants, all the while working within the framework of the specific rights and responsibilities established by the Rent Ordinance. The Board and City Council's 4x4 Joint Task Force Committee on Housing (4x4 Committee) has also met increasingly to tackle important rental housing issues.

Below is a partial list of some of the important achievements the Board and agency have made over the past year:

- Provide remote services in all areas from counseling, registration, hearings & mediations, and public meetings due to Covid-19 Pandemic
- Enhanced building security and COVID-19 pandemic related improvements
- Plan for implementation and administration of the City's Fair Chance Ordinance which prohibits discrimination based on tenants' past criminal history
- Review and propose improvements to the Berkeley's Relocation Ordinance
- Provide input on proposed quadplex zoning proposal
- Review impacts of SB 330 on Demolition Ordinance
- Enact a COVID-19 hardship waiver process

- Outreach Counseling on state eviction moratorium
- Expanding counseling and mediation services to Measure MM units
- Provide feedback on the Berkeley Existing Buildings Electrification Strategy
- Provide live webinars on Measure MM requirements, state and local eviction moratorium
- Engage in a strategic planning process
- Work with 4x4 Committee and other stakeholders on potential revisions to the City's Demolition Ordinance.
- Complete for the first time a formal mid-fiscal year budget review process
- Work with EDC & EBCLC to shift the focus of their work from evictions to housing retention

Staff has done an outstanding job providing remote services throughout the pandemic, while also taking on the unique challenges of implementing Measure MM's new services and registration requirements. The Board and landlord/tenant community have come to expect the agency to deliver its core services at a high level, and the agency has managed to do so under some of the most trying circumstances in its history. The programs core services will remain important to both landlords and tenants as the economy returns to normal and the ability to evict tenants for the non-payment of rent is reinstated.

Goals and New Initiatives in FY 2021/22

While the agency faced unprecedented challenges this past year, it was still able to dedicate the time needed to pursue initiatives that are beyond the provision of the agency's core services in order to improve future services to all of Berkeley's rental housing stakeholders.

Staff, the Budget & Personnel Committee, Outreach and other Board committees, have identified 20 projects that are priorities during the upcoming fiscal year. Several of the larger projects, as well as city-wide policy initiatives, carry-over from this current fiscal year:

1. Complete the initial registration of Measure MM units
2. Prepare and execute a phased office reopening and begin to provide more in-person services to clients.
3. Provide outreach and assistance to tenants and landlords on laws and requirements for evictions as state and local eviction moratoriums come to an end.
4. Fully transition from the agency's existing RTS Database to the agency's new integrated software platform being developed by 3Di.
5. Recruit, select, hire and train a new permanent Executive Director.¹
6. Create and hire a new General Counsel position that reports directly to the Board.
7. Recruit, select, hire and train a new Deputy Director.²
8. Implement and administrate the City's Fair Chance Housing Ordinance.
9. Complete a survey of tenants and begin scoping a study/survey of property owners.
10. Use the 2nd and 4th Wednesdays to work on agency-wide improvement areas identified in the executive transition survey

¹ The agency currently employs an Acting Executive Director who is also the Senior Staff Attorney.

² It is recommended that this recruitment follow the hiring of a permanent Executive Director and that this position be revisited during the mid-year budget review.

11. Continue work to improve the Demolition Ordinance to reach the appropriate balance of allowing new construction, while protecting sitting tenants and mitigating the overall loss of housing affordability.
12. Work with the City of Berkeley to revamp and improve the Relocation Ordinance.
13. Monitor development projects including the creation of new ADUs that impact the tenancies or services to existing tenants.
14. Continue to monitor Short-Term Rental Ordinance compliance to prevent the loss of long-term rentals.
15. Provide enhanced trainings for staff and Board members
16. Continue studying and memorializing the impacts of Costa-Hawkins on Berkeley and other cities in the state.
17. Implement two-phase project to recreate all Rent Board web content (including PDFs) and transfer to new website CMS, and expand integration with the City's public records portal.
18. Working with City Council to assist with the adoption of the Tenant Opportunity to Purchase Act (TOPA).
19. Continue working with local and regional groups to develop a coordinated and effective response to the housing crisis.
20. Work with City of Berkeley IT Department to enhance agency cyber security.

Administration of the Fair Chance Ordinance

On April 14, 2020, the Berkeley City Council adopted the Ronald V. Dellums Fair Chance Access to Housing Ordinance (B.M.C. Chapter 13.106). The Ordinance prohibits housing providers from advertising, directly or indirectly, that they will not consider applicants with criminal histories except as required by state or federal law.

On December 14, 2020, the Board agreed in principle to administer the Ordinance on behalf of the City after receiving a letter from Mayor Arreguín requesting that the agency do so “subject to the negotiation of an agreement between the City administration and the Board regarding the specific roles and responsibilities in ordinance implementation”.

On March 23, 2021, staff submitted an outline of responsibilities and roles the Board staff could take on in order to implement the ordinance, along with a proposed budget for both one-time start-up costs and ongoing annual staffing costs. Staff proposed that the Board be responsible for the counseling of landlords and tenants in Berkeley on the Ordinance, working with City Attorney's office to draft administrative regulations related to the implementation of the hearings process, including an administrative review process, and the holding full evidentiary hearings.

The proposed budget that was submitted to City of Berkeley administration represents staff best estimate on what how much staff time Ordinance implementation will take, and included \$10,350 in startup costs and \$105,500 in ongoing personal costs to administer the Ordinance. Staff recently learned from the City's Budget Manager that the requested allocation is being included in the City Council budget for next fiscal year. Staff are preparing to begin implementation of the Fair Chance Ordinance starting July 1st, 2021.

The transfer of \$115,850 in funds from the City of Berkeley is included as projected revenue in the proposed budget. Staff will monitor the number of hours dedicated to Fair Chance Ordinance administration and adjust the budget request to City Council accordingly for FY 2022/23.

Highlights of the FY 2021/22 Proposed Budget

The proposed FY 2021/22 Budget (Attachment 3) requests new spending authorization totaling \$6,210,950.³ This amount includes \$5,777,950 toward our recurring operational expenses (88% of which is for staff and office rent), \$428,000 for replacing the agency's RTS database, outside IT support and maintenance, document scanning, a tenant survey, and enhanced training. The remaining \$5,000 is allocated for a temporary agency employee to assist with the initial registration of Measure MM units that was authorized by the Board at its May 6, 2021 meeting.

Several proposed FY 2021/22 line-item budget allocations are for projects that were proposed for implementation this fiscal year but were not completed due to the agency's focus on implementing Measure MM.

\$138,000 - Database Solution - The Board adopted a one-time \$20 adjustment to the registration fee in FY 2017/18, with the \$400,000 collected placed in the Board's Capital Reserve and earmarked for finding a sustainable long-term solution to our database needs. The agency has contracted with 3Di, Inc. to develop a new integrated software solution to replace the existing RTS database and anticipate the new platform will launch in December of 2021. Development was delayed due to the need to shift focus to Measure MM registration this past fiscal year. The 3Di, Inc. contract spreads out payment for the development of the database.

\$80,000 – Tenant Survey – completing a new tenant survey has been a top priority for the Outreach Committee. The Board completed its last tenant survey in 2009, which was directed by former Rent Board Deputy Director Dr. Stephen Barton. The Board will hire an outside vendor to conduct this survey, but the Outreach Committee has already proposed to consult with Dr. Barton on survey design.

\$85,000 - Enhanced Training - The proposed budget recommends that \$10,000 be allocated on a recurring basis to the Training line item (40-63) for ongoing enhanced training opportunities for staff. An additional one-time allocation of \$75,000 is set aside in the CIP line item for trainings, team-building exercises for both staff and the Board, as well as for the continued support of a consultant to help the agency respond to the growth opportunities identified in the executive transition assessment.

\$75,000 - Scanning of Property Files – Now that the majority of agency staff have worked remotely for the past year, the potential benefits of scanning all of the existing property files, and potentially additional files are even more clear. However, given the agency's focus on implementing Measure MM and completing transition to a new software and database platform in the first half of the year, staff do not anticipate beginning work on this project until the second half of FY 2021/22. Staff will provide an update on the timeline for this project with the FY 2021/22 mid-fiscal year budget report.

³ As has been described in prior communications, funding previously allocated by the Board for a specific purpose (like the \$400,000 set aside for a database solution), but unspent in the current fiscal year, will generally be carried over into the next year. These amounts are tracked independently from and not included in the total of "new" funding being requested for FY 2022.

Change in Staff Classification and a New Permanent Position - These proposed changes are described in detail below. If approved, implementing this recommendation would increase personnel expenditures by around \$250,000 in both salaries and benefits.

Need for Proposed Staffing Changes

The departure of several key staff members has necessitated a change to the staffing model. Also, there were several adjustments to the staffing model that were discussed with the Board prior to the resignation of the former Executive Director. The goal, as always, is to develop a model that will best assure the long-term stability and vibrancy of the services provided by our amazing staff.

We propose the following changes to existing classifications:

1. That the Board convert the Staff Attorney III to a new General Counsel position. The Budget & Personnel Committee has requested that the current Staff Attorney III position (commonly referred to as the Senior Staff Attorney) be converted to General Counsel. This position, like the Executive Director, will be hired directly by the Board and report directly to the Commissioners.⁴ The General Counsel would be primarily responsible for managing the Board's legal unit and would take on additional responsibility to advise the Board regarding confidential matters. The General Counsel position would not report directly to the Executive Director but will work in conjunction with them in order to accomplish the direction set by the elected Commissioners.
2. That the Board create a new permanent Associate Planner position. The Budget & Personnel Committee has requested that the Board add the necessary staff capacity to work on the planning and housing policy related projects identified in the Board's goals for FY 2021/22. The agency currently has a staff person in a temporary Associate Planner position that is set to expire on June 30, 2021. Staff also recommend that the Board extend this temporary position through December 31, 2021 in order to maintain capacity while the agency hires a permanent Associate Planner. Extending the temporary position would also allow the existing staff person overlap with and train the staff person hired for the permanent position.

The Budget & Personnel Committee also asked staff to consider adding a 4th attorney to the staffing model. As soon as the Board hires a permanent Executive Director, the agency will get another full-time attorney dedicated to performing legal work – the current Senior Staff Attorney has been acting Executive Director since April 2020 and unable to dedicate significant time to legal issues. Hiring another staff attorney will be a considerable ongoing expense as these positions are costly. Staff strongly recommends deferring this decision until the mid-year budget review when the Board will have had a chance to evaluate the needs of the agency after the legal

⁴ There are details yet to work out for the General Counsel position. Since this position will be hired directly by the Board, the agency must execute an employment contract for the position. The Budget & Personnel Committee has not yet considered the issue of salary, but the Board Chair has recommended that the salary be set at the current range of the Executive Director. The salary the General Counsel would receive would depend on the experience and unique qualifications of any candidate.

unit receives another attorney by way of releasing the current Senior Staff Attorney from his duties associated with the Executive Director position.

Update on Rent Tracking System (RTS) and Case Management Replacement Project

On August 20, 2020 the Board authorized its acting Executive Director to enter into a contract with software vendor, 3Di, Inc., to replace the agency's existing RTS database and case management system with an integrated software solution. RTS is essential for registration of properties, calculating of rent ceilings, implementing Hearing's Unit decisions, collection of registration fees and penalties. The Rent Board's case management system (also known as RTS2) allows Housing Counselors to input and track data on cases and record client contacts.

Staff began negotiating with 3Di in August and September, and after a delay due to finalizing cyber-security requirements between 3Di and the City of Berkeley IT Department, came to an agreement on contract terms in late October of 2020. During contract negotiations staff apprised 3Di that additional registration requirements could be passed by Berkeley voters via Measure MM and included these requirements in the contracts scope of work. When staff learned that the software developer responsible for programming its existing RTS database did not have capacity to create a new registration module for Measure MM properties in November or December, staff asked 3Di to prioritize Measure MM registration requirements if it was passed by Berkeley voters in November.

When Measure MM passed, 3Di began working in earnest to develop the functionality to register, bill and accept payments for Measure MM units. Working with 3Di to develop these requirements has been a constant priority, and staff are pleased to report the Measure MM registration and platform has been developed and went live on May 16, 2021. 3Di is now working on the processes for late payment and calculation of associated penalties. When development of all processes necessary to support Measure MM registration are complete, 3Di will shift their focus to the development of the outstanding features needed to replace both RTS and the case management system.

3Di has met regularly with different staff members to gather requirements for agency functions such as hearings and mediations, processing eviction notices, and case management for housing counselors. At this point staff anticipate all processes needed to replace the existing systems will go-live in December of 2021.

The Rent Stabilization Fund (440) currently has a total of \$490,000 in capital reserves, \$400,000 of which was collected in FY 2017/18 to cover the costs of the replacement of RTS. Staff anticipate spending \$138,000 on development and support of the new 3Di software platform in FY 2021/22. Much of the rest of the capital reserve is dedicated to continued maintenance of the 3Di system and will be paid in subsequent years.

Status of the 440 Reserve Balance

Historically, the Board has attempted to maintain a "one-to-two-month" uncommitted reserve balance in the Rent Stabilization Fund. The City Auditor's recommendation is that the reserve contains at least two months or 16% of the agency's reoccurring operational budget. Certain Departments, such as the Berkeley's Planning & Development department aim to maintain a much larger reserve, closer to twelve months. Such a large reserve has historically not been

necessary for the Board since registration revenues have become very consistent, and therefore a relatively small reserve of between 8%-16% has met the Board's needs.

Although the Board has previously chosen to go below the 8% reserve level to contain the size of fee increases, it has maintained its reserve of over 16% since the end of Fiscal Year 2017/18. We anticipate we will end this current fiscal year with an uncommitted reserve of over 14%. This is nearly 10% higher than initially budgeted and is due mostly to salary savings and the fact that revenues did not decrease as significantly as the Board anticipated despite the economic impact of the COVID-19 Pandemic. Due to these reasons, the Rent Stabilization Fund (440) has just under a two-month reserve. The Board also has \$490,000 set aside in the Capital Reserve, though as was discussed in the previous section, most of that is earmarked for the ongoing development of the RTS replacement project and the file scanning project.

On May 6th, the Board agreed to maintain the amount of the registration fee for fully-covered rental units at \$250 per unit for the fourth consecutive year. The Board wanted to avoid increasing the fully-covered fee that applies to between 19,000 and 20,000 units at time when the economy and rental housing market is still impacted by the COVID-19 pandemic.

The Board also set the Measure MM fee for the first time at \$150 per unit. This fee is calculated based on the additional costs associated with implementing Measure MM registration and providing expanded services to the units in FY 2021/22 (\$100 per unit), and on the revenue required to cover the additional expenses associated with registering and providing services for partially covered units during FY 2020/21 (\$50 per unit).

The proposed budget also allocates \$213,000 of the capital reserve towards the RTS replacement project and the file scanning project. The Board will have a remaining capital reserve of \$277,000, though the majority of this, including at least \$138,000 in FY 2022/23, is dedicated to the RTS replacement project being developed by 3Di.

The proposed budget assumes a low 50% initial compliance rate for Measure MM units, and assumes that only 4,000 units will qualify for registration. The proposed budget therefore reflects that the Board will receive just \$300,000 in Measure MM registration fee revenue next fiscal year. Since the compliance rate for these units is not yet known, staff recommend the Board take a conservative approach and plan to use some of the uncommitted reserve to make-up for any Measure MM properties that are slow to comply with the new registration requirements. Since the agency sent out Measure MM bills to over 6,000 units, there is a definitely a possibility that FY 2021/22 Measure MM revenue will eventually exceed this estimate.

Even if the Measure MM unit compliance rate only results in revenue of around \$300,000 in this initial year of registration, the compliance rate for these units should increase significantly as staff continues its outreach efforts to property owners in future fiscal years. With overall FY 2021/22 revenue projected at \$5,515,850 (including the City of Berkeley's allocation for Fair Chance Ordinance administration), the expenditure level proposed by the Budget & Personnel committee would reduce the Board's uncommitted reserve by around \$482,000. At this level the Board would end FY 2021/22 with approximately \$354,000 in uncommitted reserve, which is 6% of its reoccurring operational budget.

Sustainability of FUND 440 Reserve Balance

The possibility of ending FY 2021/22 with an uncommitted reserve that is below 8% (the lower end of the Board's reserve policy) reinforces the need to again rely on a formal mid-fiscal year budget review process in order to adjust expenditures if Measure MM revenue comes in lower than anticipated.

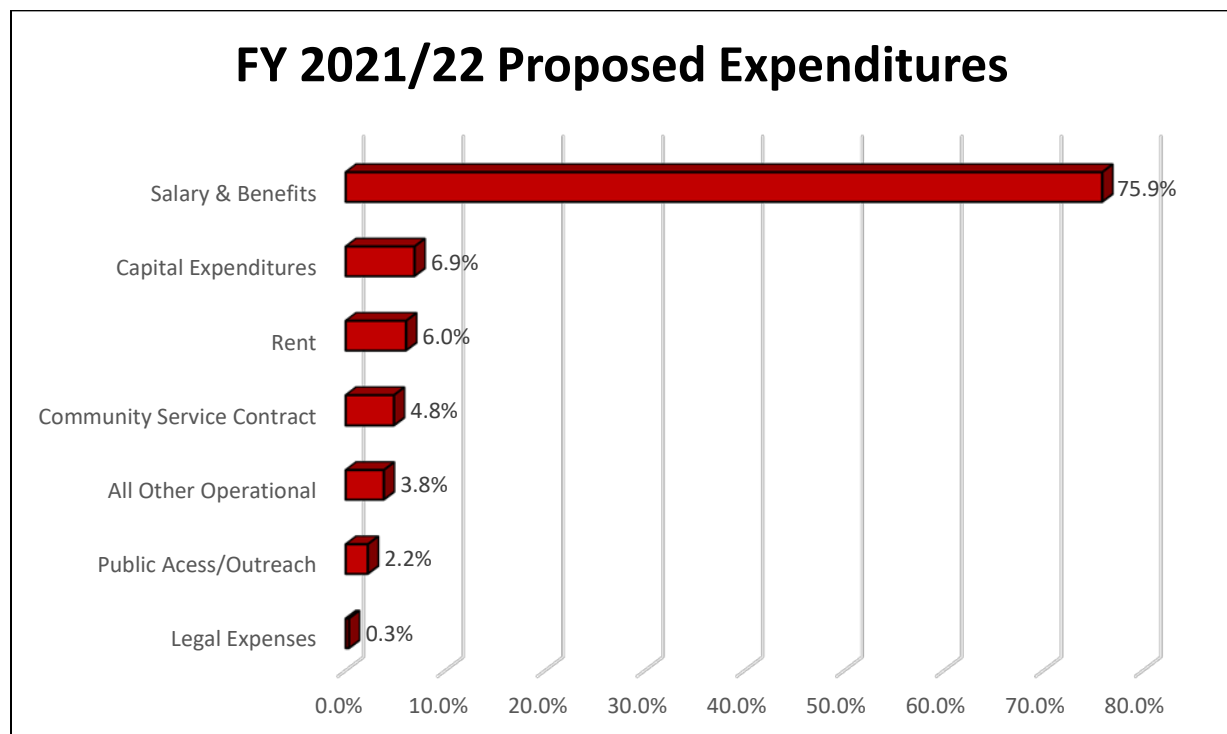
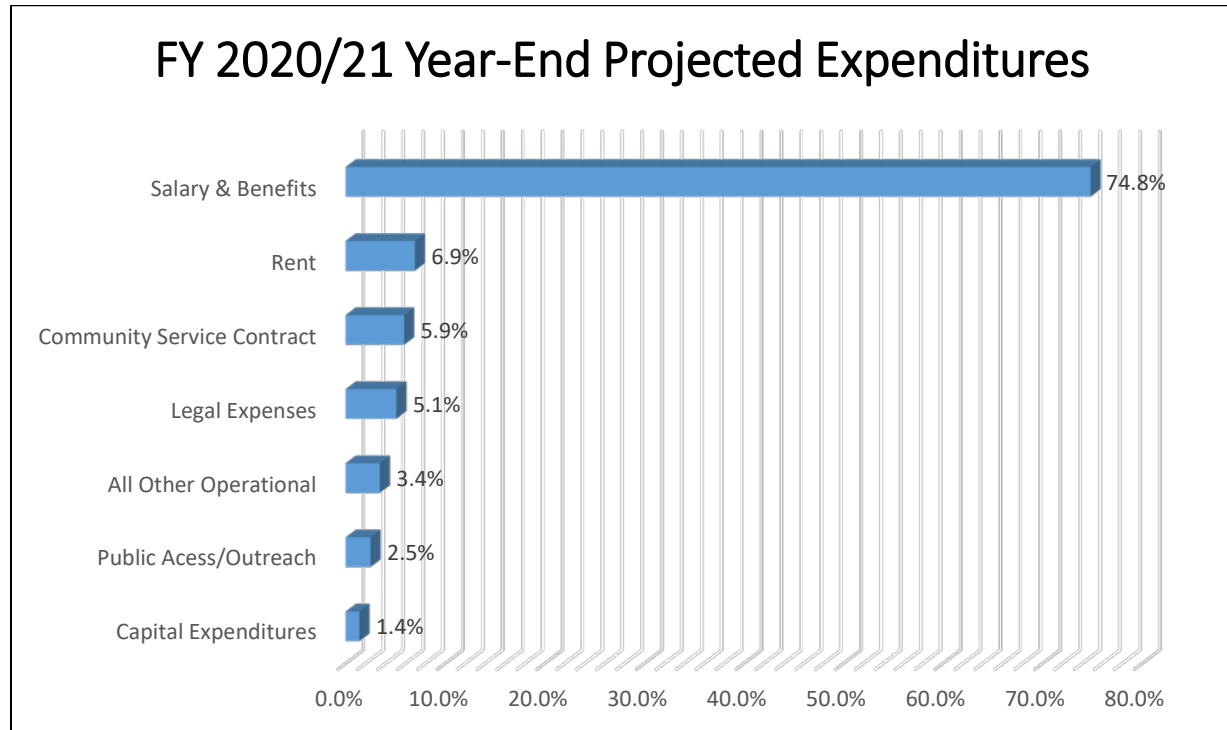
For the FY 2021/22 budget, staff 's recommendation proposes a 57.5% drawdown of the Board's uncommitted reserve and a 43.5% drawdown of the Board's capital reserve. Overall, the Board is in a good fiscal position, having weathered the economic uncertainties posed by the COVID-19 Pandemic this past 15 months. The proposed drawdown of the Board's reserve is also far less than what the Board approved for this fiscal year.

When the Measure MM requirements are fully implemented, the Board will have a better idea of the staffing needed to serve these units, and it will also have better information to project the revenue Measure MM units will provide to pay for these services and thus allow for a more accurate fee calculation for the FY 2021/22 registration fee levels. As the rental housing market recovers, the Board may wish to reexamine its reserve policy and allocate some of next year's revenue to restore its uncommitted reserve to the ideal level if it does indeed drop below 8%.

The Board is considering this budget proposal when the economy is still recovering from a recent crisis, while at the same time implementing a completely new registration process. Under these circumstances, we think it is in the agency's best interest to utilize the reserve in this manner and to return to its normal "pay as you go" method when Berkeley's student population has returned and the rental housing market in has regained some stability. Staff do not recommend the Board make a practice of using the reserve to fund recurring expenditures unless special conditions such as these require it.

Graphic Overview of Changes in Rent Board Expenditures

The graphics below compare, in broad categories, how the Board budget is allocated in both the current fiscal year and in the proposed budget.



Conclusion

Staff asks that the Budget & Personnel provide their input and feedback and then make a budget recommendation to the full Board for FY 2021/22.

Staff will provide additional information and attachments to for the Board to consider at their June 17, 2021 meeting, including a line-item explanation of each element of the proposed budget, and a breakdown of the proposed staff positions by both position and work unit.

Attachments:

1. Proposed FY 2021/22 Line-Item Budget with 3/4th-year FY 2021 Update and Final Year-end FY 2020 actuals
2. Proposed FY 2021/22 Organization Chart sorted by division/supervision.

Rent Stabilization Program FUND 440 Final FY 2020 Year-End, FY 2021 3/4 Year Budget Update & Proposed FY 2022						
Code	Description	Actual Year-End FY 2020	Adopted FY 2021	3/4ths Year FY 2021	Projected FY 2021	Proposed FY 2022
11-01	Monthly Employees	2,278,697	2,482,000	1,670,208	2,255,000	2,850,000
11-03	Hourly Employees	193,425	0	0	0	0
13-01	Overtime	4,149	5,000	477	1,000	5,000
27-20	Benefits	1,546,846	1,620,000	1,062,507	1,510,000	1,800,000
30-12	Stipends	51,200	53,500	38,350	53,500	53,500
30-23	Misc. Legal Expenses	121,372	360,000	225,670	260,000	20,000
30-36	Temp. Agency Employees	0	0	0	7,000	5,000
30-38	Misc. Professional Services	354,035	410,000	237,395	410,000	410,000
30-42	Office Equip. Mtc. Svcs. / Furniture	15,667	13,000	5,966	13,000	13,000
30-43	Bldg. & Structures Mtc. Svc.	340	400	291	400	500
30-51	Bank Credit Card Charges	17,519	25,000	6,528	20,000	25,000
40-10	Professional Dues & Intern Fees	2,779	3,000	2,060	3,000	3,000
40-31	Telephones	5,246	5,000	4,537	5,000	5,000
40-50	Printing and Binding	32,340	25,000	24,798	30,000	35,000
40-62	Meals & Lodging	0	1,000	0	1,000	1,000
40-63	Registration Fees/Training	0	12,000	0	10,000	12,000
40-61/64	Transportation & Commercial Travel	802	5,000	12	5,000	5,000
40-70	Advertising/public access	39,454	30,000	28,491	45,000	45,000
40-80	Books & Publications	11,138	13,000	9,847	13,000	13,000
50-10	Rental of Land / Buildings	345,261	355,000	249,660	355,000	375,000
51-10	Postage	43,236	25,000	25,075	35,000	40,000
51-20	Messenger / Delivery	201	500	0	500	500
55-11	Office Supplies	12,778	15,000	10,783	15,000	15,000
55-50	Food and Water	647	2,000	528	1,000	2,000
70-43	Office Equipment and Furniture	418	5,000	0	5,000	5,000
70-44	Computers, Printers, Software	2,464	10,000	2,568	5,000	12,000
75-25	PC Replacement/City Software Licences	0	50,709	38,034	50,709	27,350
75-35	Mail Services	3,600	3,600	2,700	3,600	3,600
75-50	City Vehicle / Fuel & Maint.	1,500	1,500	1,500	1,500	1,500
	Expenditure Subtotal**	5,085,112	5,531,209	3,647,985	5,114,209	5,782,950
	Special Projects (RTS Upgrade, online registration, training)	50,020	565,000	24,785	70,000	428,000
	Annual Capital Reserve		0	0	0	0
	Total Authorized Fund Expenditures*	5,130,732	6,096,209	3,669,770	5,184,209	6,210,950
	Total Authorized Fund Revenue*	5,066,705	4,850,000	4,912,917	4,950,000	5,515,850
	Annual Surplus/Shortfall	(64,027)	(1,246,209)	1,243,147	(234,209)	(695,100)
	FUND BALANCE (cash basis)	1,560,135	313,926	1,557,073	1,325,926	630,826
	FUND BALANCE (accrual basis)	1,560,135	313,926	1,557,073	1,325,926	630,826
	TOTAL UNCOMMITTED OPERATIONAL FUND BALANCE	1,060,135	278,926	1,522,073	835,926	353,826

* Note: this report only reflects charges & revenues against the Rent Board Fund (Fund 440) and does not include services charged to or received from other funds

** Note: variance in actual expenditures and total fund balance reflects remaining balance in reimbursement offset escrow

Proposed Berkeley Rent Stabilization Program 2021/22 Organization Chart*

Proposed Career and Temporary Positions FY 2021/22

Sorted by Division Supervision

*For Consideration by Rent Stabilization Board’s Budget & Personnel Committee

