

Berkeley Rental News

FALL 2008

THE NEWSLETTER OF THE BERKELEY RENT STABILIZATION BOARD



BERKELEY RENT STABILIZATION BOARD

www.ci.berkeley.ca.us/rent

COMMISSIONERS

Jesse Arreguin, Chair
David Blake
Corie Calfee
Howard Chong
Jack Harrison, Vice Chair
Jason Overman
Lisa Stephens
Eleanor Walden
Pamela Webster

EXECUTIVE DIRECTOR

Jay Kelekian

EDITOR

Allison Pretto

RENT BOARD OFFICES

2125 Milvia Street
Berkeley, CA 94704
Phone: (510) 981-RENT
(510) 981-7368

Regular Rent Board Meeting Schedule

Meetings of the Rent Stabilization Board are generally held on the third Monday of each month, except holidays. Meetings take place at 7:00 p.m. in the City Council Chambers, 2134 Martin Luther King Jr. Way. For the remainder of 2008, meetings are scheduled for the following dates:

Monday, October 20

Monday, November 17

Monday, December 15



Meetings are open to the public and are televised live on Berkeley's Cable Channel 33 and broadcast live by KPFB radio station (89.3 FM). Rebroadcasts are televised on Cable Channel 33 according to their schedule. Meetings may also be viewed live on the Web! Visit the Rent Board's home page at www.ci.berkeley.ca.us/rent and click on "2008 Regular Meeting Schedule."

Tenants! The Governor's recent veto of a bill protecting tenants from water shutoffs in foreclosed buildings could result in tenants receiving notices from EBMUD regarding possible shutoffs if future bills are not paid. If you receive a such a notice, call the Rent Board for more information.

Though Foreclosures are Up, Berkeley Tenants Remain Protected – If You Act!

The Northern California cities of Modesto and Stockton are leading the nation in foreclosures; and in recent months, foreclosures nationwide have reached a 20-year high. Although many tenants in these and other cities are losing their rented homes because of foreclosure, Berkeley tenants remain protected against this type of eviction.

Rental units in Berkeley are generally covered by "good cause for eviction" protection. This means that the owner of any residential rental—in this case, the bank—must cite one of the "good causes" in asking tenants to leave. Foreclosure, which amounts to a change of ownership, is NOT a good cause for eviction in Berkeley.

However, just because the bank does not have the right to evict a tenant does not mean that the institution will not make the attempt. If a tenant has received a notice to quit he or she should not ignore it, even if no good cause has been stated. Tenants should make every effort to contact that financial institution, both informing the bank of the good cause protection, and also inquiring about how to make rent payments. If tenants can't get a clear answer, they should put the rent in escrow until the issue is resolved. Tenants are still responsible for rent, even after a property has gone through foreclosure.

Tenants who have received such notices should take the following action:

1. Call the Rent Board. Staff members will review the notice, apprise tenants of their rights and, when appropriate, contact the new owner.
2. Consider contacting an attorney. Tenants may want to select a private attorney who is familiar with Berkeley rental laws. Tenants can also inquire at the Rent Board whether they qualify for representation at a non-profit agency funded by the Board. But it is wise to find an attorney, and to do it quickly. **Failure to respond to even a faulty notice can result in eviction**, so tenants should enlist the aid of a professional who is adept at navigating the legal system. This is the best way to avert the missteps that could result in an eviction.
3. Either tenants or their legal representative should contact the bank (foreclosure notices should include a contact name and address), stating their intent to continue paying rent, to confirm that the bank's representative is the correct person to whom rental payments should be addressed, and to state that the tenant understands that Berkeley's rental laws do not allow eviction in the event of foreclosure. If possible, tenants should try to get a written confirmation of ownership to ensure that they are paying rent to the property's true titleholder.

If tenants even suspect that a foreclosure is in the works and have questions, they should always feel free to contact a Rent Board housing counselor at 981-RENT for more information.



These three long-term tenants are featured in an AC Transit bus ad campaign throughout Berkeley. The ads, depicting both tenants and owners, promote the message "Berkeley Rent Board—Real People, Real Solutions." The tenants above faced pressure to move. The Rent Stabilization Ordinance and Program helped them keep their rental homes.

Working Together to Save Water Drought's Impact Spreads to Tenants and Owners Alike

Water, water everywhere? Not in the Bay Area! Two consecutive years of below-normal precipitation have taken their toll on Bay Area water resources, and in May the East Bay Municipal Utility District (EBMUD) instituted a new system of charging for water usage.

The new rate structure includes the following elements:

1. Up to a 10% increase to water volume rates for all customer classes.
2. A drought surcharge of up to \$2 for every unit of water use that exceeds the customer's individual water use allocation. More information on the various customer classes and allocations for types of residential units can be found at www.ebmud.com/drought.

How can owners and tenants in units covered by the Berkeley Rent Ordinance deal with these new restrictions?

While there are no mechanisms currently in place allowing owners to pass on the increased costs to their tenants, both owners and tenants should work to decrease their water usage and stay within the EBMUD guidelines. The Board strongly encourages this strategy both out of respect to those who bear the costs of water, and to the environment.

Guidelines for Saving Water (adapted from EBMUD):

Landlords can:

- Promptly repair leaks indoors and outside.
- When watering, not water lawns or garden areas on consecutive days or more frequently than three days per week.
- When watering lawns or gardens, not water in a manner that causes excessive flooding or runoff.
- Not use water for decorative ponds, fountains or other water features that do not re-circulate water.
- Consider upgrading plumbing to more water-efficient plumbing fixtures and appliances.
- Look into converting single meter to individual meters.

Tenants can:

- Conserve water indoors.
- Shorten showers and use less bath water.
- Run only full loads of laundry and dishes. Keep a close eye on faucet use.
- Reduce use of kitchen garbage disposals through composting or curbside green waste collection.
- Not use toilets as wastebaskets.
- Promptly notify landlords of leaks or excess usage.

For more information on water saving tips, please visit www.ebmud.com/drought/.

Guide for First-time Renters in Berkeley

Berkeley's Rent Control Ordinance, enacted by the voters, regulates virtually all residential rental units in Berkeley. Its provisions have two fundamental purposes: to protect tenants from unwarranted rent increases, thus affording some predictability in housing costs; and to protect tenants from evictions without a just cause. Over the years the Rent Board has offered this guide for new tenants on how to enjoy their Berkeley rental to the fullest – and we hope that it proves useful to existing tenants, as well. So, whether you've just moved to Berkeley, or you've been around as long as we have (28 years and counting), we hope you will find this guide to your rights and obligations as a Berkeley tenant informative.

What Rights Does the Berkeley Rent Ordinance Offer YOU?

Berkeley's rent regulation and eviction protections make it exceptional among California cities. The state civil code provides guidelines governing the rental of residential property, but it offers no true protections for tenants regarding rent levels or eviction. In Berkeley, however, with few exceptions, even units not covered by rent controls are generally guaranteed eviction protections. For most apartments, flats, and rooms rented in Berkeley, tenants are entitled to four stabilizing rights:

Stable Rent

Rent increases during a tenancy are still controlled in Berkeley, even though, since January 1, 1999, under state law landlords have been free to establish initial rents for new tenants (vacancy decontrol). The rent that is negotiated at the beginning of the tenancy is the "base rent." (If your original agreement includes "discounts" or periods of free rent, call us for assistance in calculating your base rent.) Each January, after the one-year anniversary date of the tenancy's inception, the landlord may impose a "cost-of-living" increase (Annual General Adjustment set by the Rent

Board). Additional rent increases may not be imposed unless the landlord files a petition for individual rent adjustment and the Board determines that an additional rent increase is warranted. This system of rent regulation protects sitting tenants from large increases even as market rents rise due to a lack of affordable housing.

Safe, Habitable Housing and Stable services

In order to ensure that rents remain stable, it's necessary to secure stable living conditions as well. State and local laws require landlords to maintain habitable conditions and to continue providing all base-year services (such as payment of the garbage and/or water bill; access to laundry; or access to storage) for the entire tenancy. For tenancies that began before January 1, 1999, a base-year service is any service that was included in the rent on May 31, 1980. If you don't know what these are, give us a call and ask for a housing counselor to look up these services. For tenancies beginning on or after January 1, 1999, a base-year service is any service that was included in the rent at the beginning of the tenancy (these are usually indicated on your lease, or rental contract). If the landlord discontinues a base-year service, or any service that was provided at the beginning of the tenancy, tenants may be



entitled to a rent reduction.

Furthermore, a landlord must maintain a basic level of habitability in the unit. If any habitability problems arise, tenants may be entitled to a rent reduction.

Eviction Protection

Unlike other cities, Berkeley landlords must have "good cause" to evict a tenant. Nonpayment of rent and material violation of the lease are two examples of good cause. (See our Web site or give us a call for all twelve good causes for eviction.) Eviction restrictions were designed to help prevent arbitrary and discriminatory evictions, as well as situations wherein the landlord wishes to evict the current tenant in order to increase the rent significantly for a new tenant. A landlord **cannot** evict a tenant because the tenant's lease has expired or because the building has been foreclosed on or because the landlord plans to sell the building—these are **not** "good causes" for eviction. Remember that all unlawful detainers (eviction lawsuits) are filed in Superior Court. Though local rent control laws limit the causes for eviction, the courts make the final ruling on each case. Nevertheless, if you have questions regarding your rights as a landlord or tenant, please give us a call and speak with a housing counselor.

Interest on Deposit

Berkeley's Rent Ordinance also requires landlords to pay interest on any security deposits (amount in excess of the first month's rent collected at the beginning of the tenancy) that they collect from their tenants in most of Berkeley's 25,000 - rental units. This is because the deposit belongs to the tenant, even though the owner is holding it. The percent of interest is generally calculated at the 12-month average of the interest rates earned by 6-month CDs earned for the period. This rate is updated monthly and published on the Berkeley Rent Board Web site (www.ci.berkeley.ca.us/rent). Landlords are required to pay this interest to tenants

every December. If the interest is not paid by January 10 of the following year, tenants may, after providing the landlord with 15 days' prior written notice, deduct interest at the rate of 10% of the deposit from their rent, for the immediately preceding year. When the tenant vacates the unit, the landlord must also pay interest for the period of time since the last interest payment. Effective November 2, 2008, the Berkeley Rent Board now provides another option for property owners if the deposit is held in a Berkeley bank. Please see the article on Page 4 for more details.

How is Your Unit Covered by the Ordinance?

Roughly 19,000 units are covered by all provisions of the ordinance.

Partially Exempt

Units constructed after June 30, 1980, Section 8 units, most single-family homes (including condos) and many units owned by nonprofits are partially exempt from the Ordinance. Owners of partially exempt units must pay interest on security deposits and have good cause to evict, but are not required to pay a registration fee, and their rents are not controlled by the Rent Board.

Completely Exempt

Fewer than 500 units are completely exempt from the ordinance. These include units in which the owner shares kitchen or bath facilities with the tenant; and a rental unit on a 2-unit property where a 50% owner of record occupied one unit on December 31, 1979 and a 50% owner of record occupies a unit.

Please note: There are additional circumstances under which a unit might be partially or fully exempt from the Berkeley Rent Ordinance. If you have any questions on whether a unit you inhabit or rent out should be registered with the Rent Board, please give us a call!

Ellis Act Evictions: Know Your Protections

Berkeley law limits evictions to one of twelve "good causes." However, under state law, an owner who wishes to take a unit off the rental market can utilize the Ellis Act to evict a tenant. Significant constraints may be placed on the property for the next ten years when the Ellis Act is invoked. Some cities, like Los Angeles and San Francisco, have seen thousands of tenants evicted because of the Ellis Act. Concerned about market forces leading to an increase in rental unit removals and subsequent alternative uses, the Berkeley City Council, acting on the recommendation of the Berkeley Rent Board, in January approved changes in relocation payments to tenants evicted through the Ellis Act.

The City Council's recent action provides displaced tenants the following protections:

- **Increase in Base Relocation Payment:** Tenant households shall receive a minimum of \$8,700 in relocation assistance for each unit rented after January 1, 1999. Tenants in long-term rentals for which the tenancy began prior to 1999 are entitled to \$13,700 in relocation benefits.



- **\$2,500 in Additional Relocation Assistance for Certain Protected Households:** Those displaced as a result of Ellis are entitled to an additional \$2,500 if the household has:
 - A resident child who is younger than 18 years of age.
 - A tenant who is 60 years of age or older or disabled.
 - An annual income less than 80% of the median for Alameda County.
- **One-Year Notice Required to Displace an Elderly and/or Disabled Tenant:** Tenants who are disabled or 62 years of age or older and who resided at the unit for at least one year are entitled to one year's notice of the intent to withdraw the unit due to the Ellis Act, rather than the 120 days' notice generally required.

ALSO OF NOTE

Under the City's Condominium Conversion Ordinance, owners must wait ten years after invoking the Ellis Act to convert a rental unit to condominium. Please call our office for more information.



The Makings of a Habitable Apartment

State law mandates that landlords maintain a basic level of habitability in every apartment. Your apartment should provide all of the services outlined below. If any are lacking, then give us a call – you may be eligible to file for a rent reduction.

- Entry doors have working deadbolt locks
- All electrical sockets are behind cover-plates
- The unit does not have exposed wiring
- Stove burners and oven work safely with functioning doors and knobs
- Gas appliances operate free of gaseous odors
- Water heater is in working order and has a working temperature and pressure relief valve
- Smoke detectors are installed in hallways and sleeping rooms
- Hot and cold running water
- A functional sewer system
- Windows are operable and bars, if present, have a release mechanism
- The floor is free of any trip hazards

- The roof has no leaks
- The entrances and exits are easily accessible

And keep in mind:

- **Mold:** Properly ventilate the rental unit (especially bathrooms) as much as you can. Leaving the window or door open while showering can make a big difference when it comes to preventing mold infestation.
- **Pest infestations:** Property owners are responsible for keeping rental units free of any infestations. Asking owners to caulk holes and being careful not to leave any food out will also lessen the chance of having to deal with this problem.

Annual Inspection

Every rental unit over five years old in the City of Berkeley must be inspected annually by July 1 for safety. The owner is required to do this by Berkeley's Rental Housing Safety Program. Tenants should receive a notice from the owner that such an inspection has been performed by July 1 of each year. If you have not received such notice, call the RHSP at 981-5445. If you believe that your unit has housing code violations, you might also consider calling the Housing Department's Codes and Inspections Unit at 981-5444 to schedule an inspection.

Tenants: Get to know your resources!

Many departments throughout the City are working hard to keep rental housing in Berkeley available and in good condition. Property owners often work with these departments to ensure that tenants are being offered safe, clean, and functional units. Tenants also often contact these departments to make sure their rental units are kept up to code. The following City departments enforce various

state and local laws designed to ensure that residential rental housing is well maintained:

Berkeley Rent Stabilization Program:
(510) 981-RENT

Housing Code Enforcement:
(510) 981-5444

Tenant Rental Relocation:
(510) 981-5418

Rental Housing Safety Program:
(510) 981-5445

Environmental Health:
(510) 981-5310

Police:
(510) 981-5900
(510) 981-5911 *emergency number for cell phone users*

Refuse:
(510) 981-6350

Fire Prevention:
(510) 981-5585

Getting Help from the Rent Board

Now that you know what rights the Berkeley Rent Ordinance entitles you to, learn how our staff works to help make landlords' and tenants' lives easier.

Counseling: Housing counselors assist landlords and tenants by telephone or in person at our office. Counselors give information on rights and obligations under the Rent Ordinance and state law. They can advise parties on the best ways to approach problems and to get them resolved. We assist more than 10,000 people per year.

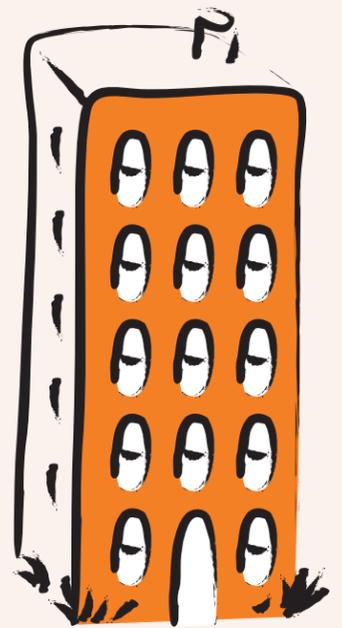
Mediation: If you are having a dispute with a landlord, roommate, or another tenant in the building, the Rent Board

can help mediate your dispute in an informal setting.

Petitions: Tenants or landlords who wish to adjust their rent ceilings down or up can file petitions. After a hearing, the Rent Stabilization Program issues a binding decision for each petition.

Property information: Rent Board records concerning individual rent ceiling histories and services can be examined at our office, and copies can be made upon request.

Outreach: All new property owners and tenants receive a thorough and readable booklet from the Rent Board explaining both the Ordinance and the agency's services. Furthermore, counselors are also available regularly in public venues. See Page 4 for a full list of dates. Finally, Rent Board staff are available to do special presentations or counseling sessions. If you represent a group that has common issues around rent control or landlord/tenant matters in general, call us. We will come to you! Outreach staff are available to help you organize an event and provide useful information.



Economists Take a New Look at Rent Regulation

Traditionally, rent control has been supported by social reformers and those concerned with stabilizing communities. The opponents of rent control have generally included mainstream economists. However, now that deregulation in the financial and mortgage markets has resulted in a wave of foreclosures that have undermined many of the foundations of homeownership in the United States, mainstream economists are rediscovering the positive value of government regulation. Economic regulations help keep markets stable and promote decent treatment for consumers of essential goods and services such as housing. Housing economists' thinking about rent regulation had already been changing over the past decade.

These economists point out that most of the historical critiques of rent control are based on rent freezes imposed on an emergency basis during and immediately after World War II, rather than the more sophisticated systems of rent regulation now used in parts of the United States, Canada and Europe. They argue that "the housing market is not perfectly competitive" and as a result "it should be possible to design a second-generation rent control program that improves efficiency."¹

The use of rent regulation to provide security of tenure is an example of this. Tenants in non-rent control cities face an unequal bargaining position when their initial lease expires because if they don't agree to the proposed new rent they will be forced to move, with all

the additional costs this imposes. When this is incorporated into a model of the rental housing market, "a policy which consists of indexing rents may be socially preferable."²

Many housing economists now agree that the effects of rent regulations cannot be predicted in the abstract, but rather depend on the details of the program, how well it is administered and how well it fits with the particular market being regulated.³

For Berkeley in particular, rent control's legacy after 28 years remains one of stability and benefit to the city as a whole. While tenants have received security in their homes, owners continue to make a profit and have seen their property values rise steadily over the years.

¹ Richard J. Arnott, "Time for Revisionism on Rent Control?", *Journal of Economic Perspectives*, 1995; "Rent Control" in *New Palgrave Dictionary of Economics and the Law*, 1997

² Pascal Raess and Thomas von Ungern-Sternberg, "A Model of Regulation in the Rental Housing Market", *Regional Science and Urban Economics*, 2002

³ Lee S. Friedman, "Control of Prices to Achieve Equity in Specific Markets" in *The Microeconomics of Public Policy Analysis*, Princeton University Press, 2002.

Message from the Director



To all you who have recently moved to Berkeley, I offer a hearty welcome. Fall is one of this city's most beautiful seasons, and it is one of the busiest as well, as new students and families flock to the city, and returning students take up residence once more. I hope

that for new residents, our agency becomes an important part of your wonderful experience in this rich and diverse community. We provide this issue of the Berkeley Rental News in the interest of educating all tenants who require a fresh overview of many of the services and protections that our agency offers.

June 3 election – Rent control upheld

Last year we received inquiries of concern regarding a measure on the state ballot that would have eliminated rent controls and eviction protections statewide. We provided information on Proposition 98 in our last newsletter. By a resounding margin of more than 60%, California voters rejected the limitations on rent control and eviction protections contained in Proposition 98. In Alameda County, the measure was defeated by an even greater margin, with over 70% of voters "No."

Water woes

The East Bay is in the midst of a drought and water shortage. The East Bay Municipal Utility District (EBMUD) has responded by instituting restrictions on water usage, as well as surcharges for water use that exceeds the designated amount per household. On Page 1, we have provided a guide for owners and tenants alike to take steps to conserve water. The Board encourages both owners and tenants to work together to decrease water usage. Tenants receiving the benefit of rent control have an ethical obligation to conserve water even if they are not

paying the bill. The ethics behind rent control are similar to those behind conservation in that both reflect an understanding of societal interdependence, wherein the community's stability takes precedence over the individual's ability to unreasonably consume or profit from scarce resources. So keep using water wisely.

Ellis changes

In recent years, California cities have seen significant displacement resulting from owners' desire to pursue alternate economic uses of their properties, including sales to tenants in common, conversion to condominium, and in some cases even demolition. Throughout the state, the removal of the tenant(s) is enacted through the use of the State Ellis Act. Berkeley's elected leaders had concerns that it was only a matter of time before a similar trend took hold here. For this reason, the City Council, on the Rent Board's recommendation, has increased the payments due to tenants evicted through the Ellis Act. Please read carefully the overview of these changes on Page 3. And of course, if tenants ever receive any kind of eviction notice, they should call us immediately.

Eviction vexation

With both the costs of new rentals and the rate of foreclosures continuing to soar, Berkeley's eviction protections have become more relevant than ever. We continue to emphasize that foreclosure is NOT a good cause for eviction in Berkeley! If a financial institution has taken ownership of a Berkeley property, that institution cannot evict any sitting tenants without good cause. Please look at our Page 1 article for more complete information.

As always, we wish all of our new and longer-term community members the best of luck in the upcoming year. And if you seek any information on your rental, or have comments on this newsletter, call us at **981-RENT!**

Security Deposit Interest Changes

In August the Berkeley Rent Board approved an additional standard for owners to use in determining the amount of interest due on tenants' security deposits. Effective with the interest payment due in December 2009, owners will be able to choose between two interest payment options:

1. The current rule applies and will continue to apply to cases where the landlord does not place the deposit in a financial institution located in the City of Berkeley. In this case, the landlord may use the security deposit for any purpose but must pay the tenant interest at the rate equal to the 12-month average of the average rates of interest offered on six-month CDs published by the Federal Reserve. This rate is currently available on the Berkeley Rent Board's Web site.
2. A new option for landlords is to place a tenant's security deposit in an insured account at a Berkeley bank or savings institution by the first business day in November and hold it there for the entire year. In this case, landlords can return interest to the tenant at the rate equal to the 12-month average of the average rates of interest offered on six-month CDs by commercial banks located in Berkeley. The Rent Board will obtain the interest rate data from local banks on the first business day of each month and compute the average. The "Berkeley rate" will then be published on our Web site. Owners wishing to utilize the "Berkeley rate" for the December 2009 interest refund must place the tenant's security deposit in a Berkeley account by November 3, 2008, and keep it there through October 31, 2009.

In both cases, the landlord must pay the interest to the tenant by January 10th of each year, and a pro-rated balance is due upon move-out.

- Working Together to Save Water
- Foreclosure Eviction Protections
- First-Time Renter's Guide

What's inside this issue of the Berkeley Rental News...

Contact Information:
 Phone: (510) 981-RENT
 Fax: (510) 981-4910
 TDD: (510) 981-6903
 E-mail: rent@cl.berkeley.ca.us

Office Hours:
 Monday-Friday
 9:00 a.m.-4:45 p.m.
 Except Wednesdays
 12:00 noon-6:30 p.m.

Rent Stabilization Program

2125 Milvia Street
 Berkeley, CA 94704



Berkeley Rental News

FALL 2008



PSRT STD
 US POSTAGE
 PAID
 BERKELEY, CA
 PERMIT #18

Counselors in the Community

Remember: In addition to holding our weekly evening hours, your friendly Rent Board housing counselors offer their FREE counseling expertise outside the office in two regular venues!

Berkeley Central Library, 2090 Kittredge St:
 Counselors are available on the second Saturday of each month in the Berkeley History Room, second floor, from 11:00 a.m. to noon.

North Berkeley Senior Center, 1901 Hearst Ave:
 Housing Counselors offer one-on-one counseling sessions with seniors on the third Monday each month, from noon to 3:00 p.m.

Counselors will assist both tenants and owners by answering questions on housing topics, including security deposits, rent control, evictions and unpaid rent. For more information, please contact Nick Traylor at: (510) 981-RENT.

Update of Market Rents

The following are median rents for new tenancies started from April 1-June 30, 2008, as reported to the Rent Stabilization Board. We receive frequent inquiries as to the amounts that units are currently renting for in Berkeley. If you are starting a new tenancy or renegotiating a lease, this information may be of interest.

Studio	\$995
1 BR	\$1,300
2 BR	\$1,895
3 BR	\$2,475



¡Hablamos Español!

Inquilinos y Propietarios

Obtenga este Boletín en Español

La Mesa de Estabilización de Rentas de Berkeley ahora ofrece la traducción de este boletín en español. Si desea obtener una copia, o si usted tiene preguntas sobre la renta en Berkeley, por favor llame a:

Angelina Toscano
 981-4902

We also can accommodate those who require translation in Cantonese, Mandarin, and other languages.