



A tenant in a rent-controlled apartment has the right to regulated rent **provided that the apartment is the tenant's principal residence**. If the unit is the tenant's secondary residence, then rent controls no longer apply, and the owner may file a petition with the Rent Board to increase the rent without limitation.

### What constitutes a primary residence?

The tenant need not be present at all times, but the unit should be the tenant's usual place of return. Rent Board Regulation 524 describes considerations to determine if a rent-controlled unit is a primary residence. Changes in residence often take place gradually, so no single attribute can provide the determination. Here is a list of issues that the Rent Board weighs when determining whether or not a unit is a tenant's principal place of residence:

- Does the tenant maintain another dwelling, either by owning or lease?
- Has a tenant filed a homeowner's tax exemption for another property?
- Is the non-Berkeley property listed as the tenant's place of residence on any motor vehicle registration, driver's license, voter registration, or with any other public agency, including Federal, State and local taxing authorities?
- Are all of the tenant's personal possessions inside the unit?
- Does the individual carry on basic living activities at the unit for extended periods?
- Are utilities at the subject premises billed to and paid by the tenant?
- The subject premises should be the place the tenant normally returns to as his/her home, exclusive of military service, hospitalization, vacation, family emergency, Peace Corps service, academic sabbatical, travel necessitated by employment or education, or other reasonable, temporary periods of absence.

**Full text of Regulation 524 can be found at the Rent Board's Web site**

**Want more  
information?**

**Call a Rent Board  
Housing Counselor**

**510-981-RENT**

**Or visit our Web site:**

**[www.cityofberkeley.info/rent](http://www.cityofberkeley.info/rent)**



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Visit Us:  
M, T, Th, F 9am-5pm  
Wednesday 12-6:30pm

## Group Living and Subleasing

### Are you a subtenant? Are you being overcharged?

The purpose of rent control is to prevent gouging by landlords AND master tenants. Overcharges are illegal – whether the overcharged person is a tenant or a subtenant. Master tenants must charge no more than the lawful rent ceiling to their subtenants. Tenants in group living situations pay a proportional part of the rent, and the total cannot exceed the rent ceiling. The Rent Board takes a ‘zero tolerance’ approach when it comes to tenants overcharging other tenants.

When a tenant leases or rents an entire unit from a landlord and then sublets portions of the premises to other residents, that tenant becomes a master tenant. **The total rent collected by the master tenant shall not exceed the lawful rent ceiling for that unit.**

If the master tenant collects rent in excess of the unit’s rent ceiling or more than a fair, proportional division of the rent, then that tenant shall be responsible for all overcharges to subtenants.

If subtenants suspect that they are paying more rent than the lawful rent ceiling for a rental unit, then they should call a Rent Board housing counselor. If a resolution cannot be reached, the subtenant’s recourse would be to file a Rent Board petition against the master tenant.

**Want more information?  
Call a Rent Board housing counselor.**



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