



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: May 15, 2017
TO: Honorable Members of the Rent Stabilization Board
FROM: Budget and Personnel Committee, and
Jay Kelekian, Executive Director
SUBJECT: Recommendation to set the FY 2018 annual registration fee (due July 2017) and to authorize the pass-through to certain tenants of a portion of the registration fee

Recommendation

That the Board adopt two resolutions concerning the Fiscal Year (FY) 2018 annual registration fee:

Proposed Resolution 17-05 – increasing the FY 2018 annual registration fee, due July 3, 2017 to either \$270 or \$275* per unit. The fee represents \$250 to cover the costs of recurring operational expenses and a one-time \$20 or \$25 increase for capital improvements related to establishing online registration capabilities and improvements to the Rent Tracking System database in order to increase efficiencies and allow landlords and tenants greater access to information and the ability to transact business online.

Proposed Resolution 17-06 – authorizes, with proper notice, the pass-through of up to \$11.00 per month to tenants where the tenancy began prior to January 1, 1999. The pass-through may be taken for 12 consecutive months. It cannot begin prior to July 1, 2017, and must terminate no later than December 31, 2018, unless extended by future Board action. The increase shall not result in a pass-through of greater than \$11.00 per month to any tenant. The Resolution also directs staff to continue a program/mechanism that allows low-income tenants with a household income of 40% or less of the Area Median Income (AMI), or otherwise demonstrating proof of qualification as low-income, to be reimbursed for the pass-through. Funds for the reimbursement would come from the AEPHI tenant overcharge settlement, which, pursuant to Board Regulation 1271(B), must be used for the benefit of low-income tenants.

* Note: The Executive Director is recommending that the additional fee be set at \$20, and the Budget and Personnel Committee voted (3-0-0-1 Tregub Absent) that the one-time fee be either \$20 or \$25.

Background and Need for Rent Stabilization Board Action

Legally, the Board has through the end of June to adopt a line-item budget and expenditure authorization level for FY 2017/2018. However, in order to provide sufficient time to allow staff to print and mail the annual bill prior to the last week of May, the Board traditionally sets the fee at a meeting no later than early to mid-May. The Budget and Personnel Committee has been meeting

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regularly over the past several months to monitor the current year's budget as well as analyze the required level of service and funding options for FY 2017/18 and into the future. Most recently, the Budget and Personnel Committee met on May 4 and adopted the recommendations described above.

The attached report (Attachment A), prepared for the May 1 workshop and public comment on the FY 2017/18 budget and registration fee, details the process followed and the primary operational and policy considerations discussed prior to the Budget and Personnel Committee finalizing their recommendations to the Board. We are recommending that the per-unit registration fee for recurring expenses due in July increase by \$16 per year and that there be a one-time additional increase of \$20-\$25 for specified capital improvements that will directly enhance the public's ability to interact with the agency. The primary issue explored and analyzed by the Committee was what action or combination of actions would best allow the Board to eliminate the structural deficit existing in the FY 2017 budget and to apply a "pay-as-you-go" approach in future budgets. While overall, the Fund has maintained a healthy total balance, last year the Board was in agreement that the reserve could not continue to decrease any further. The annual deficit emerged because for several years the Board decided to limit increases in registration fees to only when it was absolutely required to prevent the Fund balance from going below an 8% (one month) reserve. This approach was successful in keeping total fees paid by property owners lower than if they had been raised commensurate to the amount inflation increased annually. The table below shows that through 2016, owners saved \$71 per unit in registration fees. If the Board raises the fee to \$270, the overall savings would be reduced to \$36 per unit. However, this approach also resulted in a structural revenue/expenditure gap of \$575,000 heading into FY 2015/2016. In May 2015, the Board raised the fee \$18 and reduced the annual gap by \$325,000. Last May, as part of the FY 2016/17 budget process, the Board increased the fee by an additional \$21 and agreed that it would carry one last annual deficit (of \$124,000). By this action, the Board agreed to approve a budget that reduced the Fund balance to a reserve of 6.5%. It was assumed that the fees would need to be adjusted again in FY 2017/2018, but the question was really how much or little would be sufficient to maintain a Fund reserve in the vicinity of 6-8%.

The attached May 1 report also provides background on how much CPI and rents charged by owners in Berkeley have increased since 2009, as well as a table reflecting, over time, registration fees as a percentage of rent. Raising the recurring fee by \$16, to \$250, would equal a 28.8% increase in fees since May 2009, which is greater than the roughly 21.4% increase in CPI since May 2009. During that same period, the average rent for all rent-controlled units has increased 36.6%, which, on average, equals \$458 in additional monthly (\$5,496 annually) income per unit for owners. A registration fee of \$270 would be a 39.2% increase since May 2009, while a fee of \$275 would reflect a 41.8% increase.

YEAR	ACTUAL FEE	FEE WITH CPI	SAVINGS
2009	\$194	\$194	\$ 0
2010	\$194	\$197	\$ 3
2011	\$194	\$203	\$ 9
2012	\$194	\$207	\$13
2013	\$194	\$212	\$18
2014	\$194	\$218	\$24
2015	\$213	\$222	\$ 9
2016	\$234	\$229	- \$ 5
2017	\$270	\$235	- \$35
TOTAL	\$1881	\$1917	\$36

Four individuals addressed the Board during the public comment period of the May 1 Budget Workshop. The attached resolution (17-04) reflects the Committee's belief that it was essential to try to maintain something approaching a 6% Fund reserve balance next year, even with the additional demands on staff. With modest savings or additional revenue from an increase in the number of units registering, could make our goal of reestablishing a 7% or 8% reserve potentially attainable. The resolution also directs that the formal line-item budget and staffing model will be presented and discussed in June and must be adopted prior to June 30. Over the next five weeks, staff and the Budget and Personnel Committee will craft a comprehensive expenditure proposal based on assumed recurring revenues of approximately \$5,120,000 being raised in FY 2018 and a target of maintaining a 6% reserve. Board members and Committees are encouraged to submit any final requests or suggestions for next year's budget over the next two weeks so that they may be reviewed by staff and the Budget and Personnel Committee.

Pass-through of Increase in Registration Fee to Tenants

In 2003, the BPOA proposed changing the way the Annual General Adjustment (AGA) was calculated, shifting from a pass-through of actual cost increases to a flat formula based on a percentage of the CPI. The Board agreed with this formula, and in 2004, the voters approved of this change in how the AGA was calculated. Prior to the change in the AGA methodology, all increases in the registration fee between 1980 and 2005 were taken into consideration and incorporated in the Annual General Adjustment of rents.

Since the adoption of statewide vacancy decontrol in the late 1990s, rent levels have been set using two different standards. Under vacancy decontrol, owners are expected to take into account past and anticipated future operating cost increases when setting the initial rent for a new tenancy. Therefore, under the stated logic of vacancy decontrol, increases to the registration fee presumably have been factored into the rent charged a new tenant. Approximately 88% of the units have experienced at least one decontrol event since 1999. The Board has been extremely careful to guarantee that owners of the 12% of units never decontrolled continue to receive compensation for actual increased costs, such as adjustments to the registration fee. Since 2004, the Board has found that it would be fair and equitable, in view of the purposes of the Ordinance, to pass along to tenants part or all of the increase in fees as a temporary adjustment of rent ceilings.

for several years, the Board approved a pass-through of up to \$4.00 per month to tenants where the tenancy began prior to January 1, 1999. In 2015, with the \$19-per-year increase in the registration fee, the amount of the pass-through was increased by \$2.00 per month for a new total pass-through of \$6.00 per month. When the fee was raised by \$21 last year, an additional \$2.00 per month was added, raising the monthly pass-through to \$8.00 per unit. Staff and the Budget and Personnel Committee believe it is appropriate to increase the pass-through by an additional dollar if the fee is raised to \$250 and by three dollars if the fee is raised to either \$270 or \$275, for a new monthly total of either \$9.00 or \$11.00. If the fee is set at \$270, it would reflect a \$36 increase, which works out to exactly \$3 per month. The proposed pass-through may be taken for 12 consecutive months and cannot begin prior to July 1, 2017, and must terminate no later than December 31, 2018, unless extended by future Board action. The increase shall not result in a pass-through of greater than \$9.00 (or \$11.00) per month to any tenant. The pass-through must be on a form provided by the Board or use language provided by the Director, and a copy must be filed with the Program.

Mitigation of Impact of Pass-through for Low-Income Tenants

The last time the fee was increased, the Board discussed the impact that the pass-through of the fee could have on tenants on a fixed income, especially following the ongoing cuts in several state and federal programs assisting those most vulnerable in our society. Consequently, the Board adopted a resolution directing staff to develop a mechanism that allows low-income tenants with a household income of 40% or less of the Area Median Income (AMI) to be reimbursed for the pass-through. Funds for the reimbursement came from the AEPHI settlement. Pursuant to Board Regulation 1271(B), in the event of overcharges from a case in which a tenant has not claimed reimbursement within a year, the Board may designate a program of the City of Berkeley that benefits low- and/or moderate-income tenants. Because the AEPHI settlement was entirely from overcharges to tenants and did not include any registration fee, the Board elected to use this as a source to fund the mitigation of the pass-through. Since 2010, over 400 low-income individuals have taken advantage of this program and utilized approximately \$24,000 of the AEPHI Fund balance. As the fees have increased, we have noticed two trends: More owners are taking the pass-through and more low-income tenants are requesting reimbursement. The table below, lists the totals from each of the past three years:

Year	2014/2015	2015/2016	2016/2017
Registration Fee Charged (amount of pass-through)	\$194 (\$4 per month)	\$213 (\$6 per month)	\$234 (\$8 per month)
Number of Notices Property Owners Sent to Tenants	368	403	459
Number of Qualified Tenants Requesting Reimbursement	26	55	61

Less than \$50 remains of the \$24,000 earmarked for this program since 2010. Therefore, if the Board wishes to continue this mitigation, it would need to authorize an additional allocation from the AEPHI settlement account. The original \$18,000 allocation for the pass-through reimbursement program lasted over six years. This year, the Program spent the entire \$6,000 additional allocation for reimbursements. An additional allocation of \$10,000 should suffice in FY 2017/2018. The Board reviews the continuation of the reimbursement program each year, and if it chooses to continue the program, it may make additional allocations in future years.

In 2010, the Board also discussed the appropriate income level to qualify for the reimbursement program. Under federal guidelines, 30% of AMI is considered “Extremely Low Income” and 50% is considered “Very Low Income.” To my knowledge, there is no unique designation for 40% of the AMI. The household income by size of household for 30%, 40% and 50% of the AMI for Alameda County is listed below. According to HUD guidelines, the 2017 area median income for a household in Alameda County is \$97,400. The table below lists income standards for 1-8 person households calculated at 30%, 40% and 50% of the AMI.

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Income Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% AMI	\$21,930	\$25,050	\$28,170	\$31,290	\$33,810	\$36,300	\$38,820	\$41,310
40% AMI	\$29,240	\$33,400	\$37,560	\$41,720	\$45,080	\$48,400	\$51,760	\$55,080
50% AMI	\$36,550	\$41,750	\$46,950	\$52,150	\$56,350	\$60,500	\$64,700	\$68,850

IN each of the past several years, the Board has established a standard that allows low-income tenants with a household income of 40% or less of the AMI to be reimbursed for the pass-through. Staff and the Budget and Personnel Committee recommend that the mitigation pass-through for low-income tenants be continued at the same 40% of the AMI standard but also allow individuals to demonstrate proof of qualification for reimbursement if they already have been determined eligible for another similar state or federal program, including but not limited to CalWorks, CalFresh, Medi-Cal, WIC or another program approved by the Executive Director.

Name and Telephone Number of Contact Person

Jay Kelekian, Executive Director (510) 981-4949

Attachment 1: May 1, 2017 Background Material for Budget Workhsop and Public Hearing on the FY 2016/17 Budget and Possible Increase in the Annual Registration Fee memo

RESOLUTION 17-05

ESTABLISHING THE FISCAL YEAR 2018 ANNUAL REGISTRATION FEE, DUE JULY 3, 2017

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

WHEREAS, the Rent Stabilization Board operates on the basis of a fiscal year and each year adopts an operational budget after public review and input; and

WHEREAS, Section 123 of Article XVII of the Charter of the City of Berkeley provides that the Rent Stabilization Board shall finance its reasonable expenses by charging landlords annual registration fees in amounts deemed reasonable by the Board; and

WHEREAS, the Budget and Personnel Committee has reviewed the anticipated increases in salary, fringe benefits and rent for office space to be incurred by the Program during the next fiscal year and believes an operational spending level of \$5,120,000 will be necessary to cover recurring and short-term operational costs in Fiscal Year 2018 (FY 2018); and

WHEREAS, the Executive Director and Rent Stabilization Board believe that new recurring annual revenues of at least \$5,120,000 in FY 2018 will be necessary to meet the Program's operating needs and maintain a reserve Fund balance approaching 6% throughout FY 2018; and

WHEREAS, because of the ongoing housing crisis, demand for Rent Stabilization Program services has increased dramatically the past several years, including an estimated 25% increase over the past 24-30 months; and

WHEREAS, the Board believes that, to the extent possible, the Program should continue to meet the needs of owners and tenants requesting our services and maintain a minimum level of staff to allow that to happen; and

WHEREAS, the Executive Director and the Rent Stabilization Board believe that in order to continue meeting increasing demand and being responsive to the changing needs of our clients, ongoing improvements to our technological capacity are essential; and

WHEREAS, the Board believes that important improvements to the Rent Tracking System database as well as the establishment of online registration capabilities can be achieved with an additional, one-time capital expenditure of \$400,000 - \$500,000; and

RESOLUTION 17-05

ESTABLISHING THE FISCAL YEAR 2018 ANNUAL REGISTRATION FEE, DUE JULY 3, 2017
(Page 2)

WHEREAS, funding the desired technological improvements would require an additional, one-time increase in the per unit registration fee of between \$20 - \$25 to be earmarked specifically for these capital expenditures; and

WHEREAS, since 2009, the annual registration fee has only been increased twice, in 2015 and 2016 by \$19 and \$21 respectively; and

WHEREAS, inflation has increased approximately 21.4% and average rents of controlled units have increased by 36.6% since May 2009; and

WHEREAS, to reach the revenue targets referenced above, an annual registration fee of \$250 per unit is required, along with a one-time additional fee of \$20; and

WHEREAS, the Board will meet to consider and adopt a final budget document detailing the revenues, line-item expenditures and staffing model in June 2017.

NOW THEREFORE, BE IT RESOLVED that the annual FY 2018 registration fee, due July 3, 2017, is hereby set at \$270 per unit; and,

BE IT FURTHER RESOLVED that the Executive Director shall produce a final budget document detailing the revenues, total expenditure level (recurring and one-time costs) broken down in line-item detail, and staffing model for the Board's consideration and adoption at a scheduled meeting in June 2017.

Dated: May 15, 2017

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

YES:

NO:

ABSTAIN:

ABSENT:

John Selawsky, Chairperson
Rent Stabilization Board

Attest: _____
Jay Kelekian, Executive Director

RESOLUTION 17-06

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF THE FISCAL YEAR (FY) 2018 REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS AND HAVE STAFF IMPLEMENT A MECHANISM THAT ALLOWS QUALIFYING LOW-INCOME TENANTS TO BE REIMBURSED FOR ANY PASS-THROUGH

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

WHEREAS, the Rent Stabilization Board operates on the basis of a fiscal year and each year adopts an operational budget after public review and input; and

WHEREAS, Section 123 of Article XVII of the Charter of the City of Berkeley provides that the Rent Stabilization Board shall finance its reasonable expenses by charging landlords annual registration fees in amounts deemed reasonable by the Board; and

WHEREAS, the Executive Director and Rent Stabilization Board believe that recurring annual revenue of \$5,120,000 in FY 2018 will be necessary to meet the Program's operating needs and it will require an annual registration fee of \$250 per unit; and

WHEREAS, the Board wishes to earmark an additional \$400,000 in one-time capital improvement funding for the purposes of developing an online registration system as well as making improvements to the Rent Tracking System database, which will require an additional, one-time registration fee of \$20 per unit; and

WHEREAS, Sections 6.N and 8.K of the Rent Stabilization Ordinance authorize the Rent Board to approve passing a portion of annual registration fees along to tenants as a rent adjustment; and

WHEREAS, prior to the voters changing the way in which the Annual General Adjustment (AGA) was calculated effective in 2005, the Board passed along to tenants all increases in the registration fees as one of the components of the AGA; and

WHEREAS, with the voter-approved change in how the AGA is calculated, the Board is no longer allowed to include new increases to the registration fee as part of the AGA, but only as a pass-through adopted and extended each year; and

WHEREAS, the Rent Stabilization Board consistently found that it would be fair and equitable in view of the purposes of the Rent Ordinance to pass along to tenants part or all of the increase in the registration fee as a temporary adjustment of rent ceilings; and

WHEREAS, under vacancy decontrol, owners are expected to take into account past and anticipated future operating cost increases when setting the initial rent for a new tenancy, and therefore, increases to the registration fee presumably have been factored into the rent charged; and

RESOLUTION 17-06

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF FY 2018's REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS (Page 2)

WHEREAS, approximately 12% of the rental units in the City have a tenancy that began prior to January 1, 1999, when vacancy decontrol was fully implemented; and

WHEREAS, the Board has attempted to guarantee that owners of these non-decontrolled rental units continue to receive a pass-through for increased costs to the registration fee; and

WHEREAS, the Rent Stabilization Board finds that it would be fair and equitable in view of the purposes of the Rent Stabilization Ordinance to continue to pass along to certain tenants a portion of the 2018 registration fee as a temporary adjustment of rent ceilings; and

WHEREAS, the Board also understands and wishes to mitigate the financial hardships experienced by tenants living at 40% or less of Area Median Income (AMI) or otherwise receiving certain forms of income-qualifying assistance, who have to pay the pass-through; and

WHEREAS, the Board has unclaimed overcharge money available in the AEPHI Lawsuit Settlement Fund designated under Regulation 1271(B) for programs that benefit low- and/or moderate-income tenants.

NOW THEREFORE, BE IT RESOLVED that for each rental unit in which the tenancy began prior to January 1, 1999, for which a full registration fee is paid for Fiscal Year 2018, the landlord may, by serving legal notice pursuant to California Civil Code section 827, increase the rent by up to \$11.00 a month for twelve consecutive months, provided, however, that this partial registration fee pass-through shall not be considered part of the permanent rent ceiling for purposes of calculating the 2018 Annual General Adjustment; and

BE IT FURTHER RESOLVED that this twelve-month temporary general adjustment of up to \$11.00 may not be imposed prior to July 1, 2017, and, regardless of when first collected, shall terminate no later than December 31, 2018, unless extended by further Board action; and

BE IT FURTHER RESOLVED that the maximum increase shall not result in a pass-through greater than \$11.00 per month, and notice to tenants of any pass-through shall be on a form provided by the Board or use language approved by the Executive Director; and

BE IT FURTHER RESOLVED that the landlord shall be required to submit a copy of the above-referenced form to the Rent Board before collecting the pass-through; and

RESOLUTION 17-06

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF FY 2018's REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS (Page 3)

BE IT FURTHER RESOLVED that the Board instructs the Director to implement a program that reimburses low-income tenants with a household income at 40% or less of the AMI, or otherwise demonstrating proof of qualification in another state or federal program (including, but not limited to, CalWORKS, CalFresh, Medi-Cal, WIC) approved by the Director, for any pass-through of registration fees they incur as provided by Regulation 1271(B), which allows for distribution of unclaimed funds to benefit low-income tenants; and

BE IT FURTHER RESOLVED that in order to fund the reimbursements to low-income tenants, the Director is authorized to spend up to an additional \$10,000 from the AEPHI Lawsuit Settlement Fund.

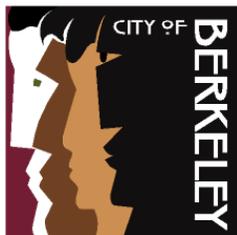
Dated: May 15, 2017

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

Yes:
No:
Abstain:
Absent:

John Selawsky, Chairperson
Rent Stabilization Board

Attest: _____
Jay Kelekian, Executive Director



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: May 1, 2017

TO: Honorable Members of the Rent Stabilization Board

FROM: Members of the Budget and Personnel Committee, and
Jay Kelekian, Executive Director

SUBJECT: Background Material for Budget Workshop and Public Hearing on the
FY 2016/17 Budget and Possible Increase in the Annual Registration Fee

Overview of Purpose of Tonight's Workshop and Public Hearing

The Budget and Personnel Committee continues to meet and review both the current Fiscal Year (FY) 2016/2017 budget as well as options for maintaining consistent quality services and a sound Fund reserve balance in FY 2017/2018 and beyond. On May 4th, I will meet with the Committee in order to present the Board on May 15th with my final recommendations on the annual registration fee, a "summer rental" fee for fraternities and sororities, a pass-through of the registration fee for all pre-1999 tenancies, and a process for reimbursing low-income tenants who are unable to afford the monthly pass-through of the fees. While the Board is scheduled to set the annual registration fee on May 15th, the Board has through the end of June to adopt the remainder of the FY 2017/2018 line-item budget and staffing model.

While, the Budget and Personnel Committee spends a substantial amount of time understanding the nuances of staff assignments and the work that staff performs in each unit, historically my presentations to the full Board have focused more on numbers (what, in prior years I labeled "the inputs"). This is because ensuring that the numbers in the budget are accurate and balanced is the core of any budget.

Several years ago, those Board members, not on the Budget and Personnel Committee, as well as members of the public asked that staff present background information leading to a greater understanding of what I called "the outputs": the work product and community benefits that result from those dollars we spend. This type of understanding is essential for Board members so that they may better evaluate what services to cut, modify, maintain or expand. This exercise is always of value but particularly so at a time when the Program is simultaneously facing a shortfall even as demand for our services increases dramatically.

As in the past, the first portion of our meeting will focus on more fully understanding the work performed and core services our staff provides to landlords and tenants in Berkeley. To further the Board and the public's understanding of how the Program operates (and has changed over the years), I have attached two reference documents:

- An updated version of “*Rent Stabilization and Good Cause for Eviction in the 21st Century*” (Attachment 1)
- An updated copy of the PowerPoint slides presented by staff during the Budget Workshop for 2015/16 describing, unit by unit, the ongoing work of the Program (Attachment 2)

This evening, rather than re-present material on our extraordinary baseline services that the Board and public has seen several times in recent years, the focus of staff's presentations will be on trends and changes over the past 12-18 months and possible areas of continuing service improvement planned over the next year or two. Naturally, staff will be happy to answer any questions related to the current or historical services described in Attachment 1 and 2.

After the staff presentation, there will be the opportunity to receive public comments on the FY 2017/18 Rent Board budget and a probable increase in the annual registration fee, due July 3, 2017. I plan on recommending that the Board, at a minimum, raise the fee to \$250 to cover known increased operational costs in FY 2017/18. I am also considering asking the Board to authorize an additional one-time increase of \$20-\$25 to cover the anticipated costs for developing a fully functional on-line registration process and substantially improving the functionality of the existing RTS database. On May 15th, the Board will hold a formal public hearing on any fee increase. With the consent of the Budget and Personnel Committee, I have published that the Board will be considering raising the registration fee to an amount not greater than \$275. The Board may elect to increase the fee in a smaller amount or to not increase the fee at all. If the fee is increased, it would be the third registration fee increase since 2009. The current annual registration fee is \$234 per unit for all units other than qualifying fraternities and sororities renting exclusively to non-members over the summer.

Summary of Budget Process and Update on FY 2016/17

For the past several months, the Budget and Personnel Committee has been meeting every few weeks to begin the process for setting next year's fee and crafting next year's budget. We began by reviewing and eventually reconciling our year-end balances from FY 2015/16 with the results of the Outside Audit. As I explained on April 18th, we noticed an error in those figures and successfully convinced the City's Finance Department and Outside Auditor to adjust our balance upward by approximately \$31,000. The Board ended last year within \$1,000 of the fund reserve balance that was anticipated when the budget was adopted last spring. As the second column of Attachment 3 shows, the Fund began this year with an uncommitted reserve of roughly \$429,566. When the Board adopted its FY2015/16 budget in June 2015, we assumed the uncommitted reserve balance would be roughly \$430,534.

The Committee then began examining how we were faring with the current FY 2016/17 budget. A mid-year budget report was first presented to and considered by the Committee and subsequently discussed at the full Board meeting on March 20th. The Budget and Personnel Committee continued monitoring FY 2016/17 revenues and expenditures through the end of February. The 2/3 Fiscal Year Update (Attachment 3) was discussed at the Board's April 17th

meeting. Based upon actual expenditure information through the end of February, I am projecting that we will end this fiscal year with an uncommitted balance in the range of \$250,000 - \$275,000. When the Board adopted the FY 2016/17 Budget last June, we anticipated the year-end fund balance would be in the neighborhood of \$305,000 - \$320,000. So, for reasons we discussed last week, we will have a slightly smaller reserve balance than we expected ten months ago.

Most years I am able to capture salary or other savings to further improve our overall year-end balance. However increased demand for services over the past two-three years has just not allowed us to realize the type of salary savings as in prior years. Consequently, when we also account for higher than anticipated fringe benefit charges and the unbudgeted emergency funding for eviction defense services, we expect to spend an amount greater than what the Board initially authorized last June.

Background & Considerations for Adopting a Registration Fee and Budget for FY 2017/18

As mentioned at the April 24th Board meeting, consistent with our long-standing practice, the Budget and Personnel Committee has been using a “Status Quo” budget model to guide the discussions and analysis of the Board’s projected financial status at the end FY 2017/18. The “Status Quo” model builds in only known, or reasonably anticipated, changes to the existing budget and assumes that all other items will either be frozen or, if increased, offset by an expenditure reduction elsewhere in the budget. The underlying assumptions in the “Status Quo” model used this year reflect, salaries increasing by \$90,000 (3.8%) next year and the fringe benefit costs increasing by \$145,000 (9.3%) over amounts budgeted for this fiscal year. Rents will increase by \$13,000 (5.5%) and Credit Card charges by \$8,000 (36%), while other non-salary costs will not increase.

This type of model provides the clearest understanding of the overall financial well-being of the Program if we simply maintain our current operations. The Board, when it adopts the final budget in June, may make additions or deletions that offset each other or make choices (such as cutting staff or raising the fee) that increase or decrease the overall Fund balance. As Attachment 3 reflects, if no changes are made to the “Status Quo” model, we project that there will be \$245,000 in recurring expenditure liabilities added to the current structural shortfall that exists in the FY 2016/17 budget. This deficit spending of \$370,000 would deplete the Rent Board Fund reserve balance by the end of FY 2017/18, leaving a net Fund deficit of \$120,000.

For over a decade, the Board’s strategy was to only increase fees when absolutely necessary. We fulfilled this strategy by not raising fees, despite continued increases in costs (primarily due to increases in the cost of health care and retirement benefits charged by PERS), and thereby drawing down the Rent Board’s Fund reserve balance.

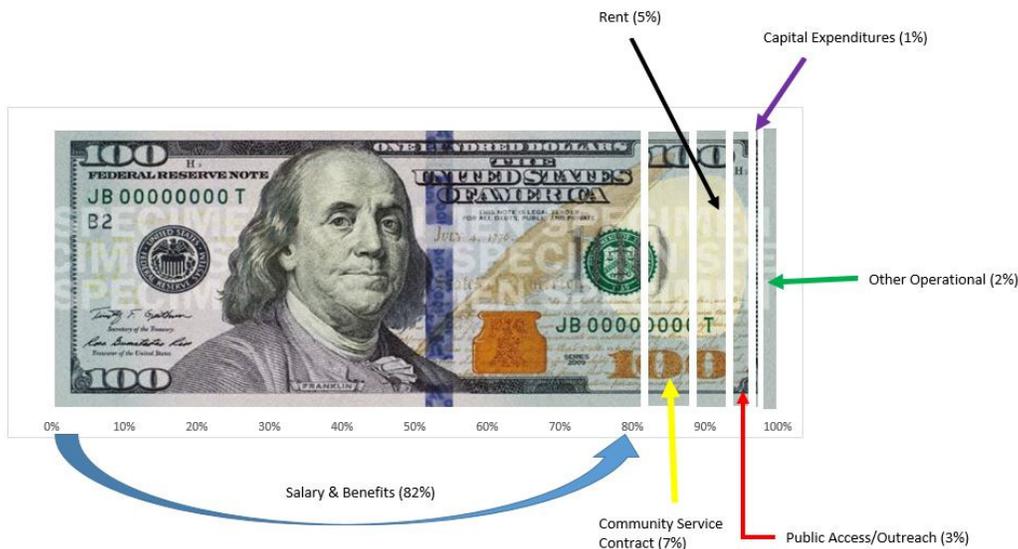
When we began the FY2015/16 budget process we acknowledged that while this approach was successful in limiting the rate of the fee over the years, it allowed a structural deficit (a gap between recurring expenses and revenues) of \$550,000 to emerge. After several meetings and a public hearing the Board decided that it was not feasible to eliminate the deficit created over six years in one bite. Ultimately, the Board decided that a combination of raising fee revenues by \$400,000 and absorbing an additional \$250,000 reduction in reserves, in that budget, was the most balanced approach.

In 2016 the Board agreed that allowing the situation to continue unchecked was not sustainable and must be remedied. In order to limit the size of the fee increase, the Board agreed to draw down the fund’s reserve, one last time. Board members indicated that it would not be prudent to consider additional reductions in the fund’s reserve. The Board’s approach between 2009-2017 proved quite wise; most owners appreciated the Board’s efforts to limit fee increases for as long as possible. Feedback from the few owners who did comment was that the Board should consider a “pay as you go”* approach and, to the extent possible, adopt more predictable increases in the future.

Because last year the Board narrowed but did not eliminate the structural deficit, we began this budget process with an annual structural shortfall of \$125,000. Any additional costs, due to known commitments (employee contracts, rent, etc.) to be incurred in FY 2017/18, would be added to the \$125,000. As indicated above, we have identified \$245,000 in additional costs next year simply to maintain our existing staffing and operational level.

Strategies for Resolving the Structural Deficit in FY 2017/2018

When considering how best to bridge the \$370,000 gap between revenues and projected baseline expenses, the Committee analyzed the revenue and expenditure patterns in our current year’s adopted budget. Over 96% of revenue comes from the registration fee, with the balance coming from penalties and fees for services to other departments in the City of Berkeley. Expenditures are apportioned as follows:



* “Pay as you go” assumes that annual revenues will be set at a level sufficient to cover recurring costs. Thus, if we believe our recurring costs will increase by \$60,000 next year, then additional “new” revenue of \$60,000 should be identified. Prior year’s savings and/or a drawing down of the reserves would only be used for one-time or short-term, rather than recurring, expenses. This approach allows for more frequent but smaller future fee increases.

After considering the available options raised, the Committee seemed resolved to the pursuing the following concepts:

- Continue exploring ways of saving money through efficiencies in non-personnel that allow resources to be redirected to emerging priorities but here should be no cuts in staffing levels while demand for services was increasing at a record pace due to the region-wide housing crisis. There will be an ongoing discussion about how best to continue realizing and expanding upon efficiencies. While this is work that the Committee and staff will pursue up to and even after the adoption of a final expenditure budget in June, it is best used as a tool to maintain essential services while limiting increases to expenditures for essential services.
- As long as demand for services continues to significantly increase, we must do our best to meet that demand through prudent, measured, short-term changes in staffing. We cannot retrench when our services are needed most, but neither should we assume that the staff being added are permanent additions.
- We must remain committed to eliminating the structural deficit this year. Because the fund reserve is below the 8% comfort level, it is no longer sustainable to reduce reserves further to pay for new expenditures, even one-time or short-term items.
- To the extent that we consider any one-time changes to the status quo budget, the cost must be covered by increased revenue. Recurring costs should have a recurring revenue source while one-time expenditures and/or expenditures of limited duration can be offset by one-time increases in revenue.
- Staff and the Committee have been discussing the success and popularity of the on-line payment feature added in May of 2016 as well as the benefits and desirability of adding a comprehensive online registration feature for owners. There have also been extensive discussions about possible improvements and/or revisions to the existing RTS database. Both of these will require a significant one-time or limited capital outlay. The staff has recommended that between \$400,000 - \$500,000 in new, one-time funding be set aside to complete these projects in FY 2017/18. If approved, the fee would need to be increased an additional \$20-\$25, above the \$250 already recommended to maintain the existing level of services in the status quo budget. The Board will receive a full report on this at their May 15th meeting.

The Committee Chair asked staff to provide the Board with some analysis of the impact of fee increases of \$16 and \$41 per year when compared to increasing rents and changes in the Consumer Price Index (CPI) since 2009. May 2009 was selected as a comparison because, as described above, beginning in 2009, the Board went several years without increasing the fees before making adjustments in each of the prior two years. The following is staff's initial analysis of the cumulative comparative impacts of additional increases in the fee:

- Since May 2009, the Bay Area Consumer Price Index has increased by roughly 21.4%.
- Since May 2009, the average rent for all controlled units has increased by 36.6 %
- Since May 2009, the average rent for all rent controlled units has increased by \$458 per month or \$5496 annually.

- An increase in the annual fee of \$16 would result in a net 28.8% increase since May 2009.
- An increase in the annual fee of \$36 would result in a net 39.2% increase since May 2009.
- An increase in the annual fee of \$41 would result in a net 41.8 % increase since May 2009.

The figures above reflect average increases for all units (controlled and decontrolled) since 2009. Since May of 2009, the rate of increase for decontrolled units rented at market has increased, on average, by 44 - 62% depending upon the size of the unit.

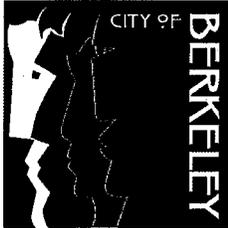
The table below, shows the registration fee as a percentage of rent, which is probably the most relevant measure of the impact of any fee. The shaded area reflects a pre-vacancy decontrol program while 1998 was a transition year from full rent control to decontrol.

Fees as a percentage of rent			
<u>Year</u>	<u>Fee</u>	<u>Mean Monthly Rent</u>	<u>% Annual Rent</u>
1984	\$60	\$267	1.87%
1987	\$80	\$293	2.28%
1989	\$100	\$328	2.54%
1991	\$136	\$361	3.14%
1998	\$112	\$720	1.30%
2000	\$124	\$865	1.19%
2005	\$154	\$1,062	1.21%
2010	\$194	\$1,274	1.27%
2014	\$194	\$1,498	1.08%
2015	\$213	\$1,606	1.11%
2016	\$234	\$1,637	1.12%
2016	\$250-\$275	\$1,710	1.21 - 1.34%

Attachment 1– Rent Stabilization and Good Cause for Eviction in the 21st Century

Attachment 2– Updated PowerPoint slides describing the ongoing work of each of the operational units at the Rent Stabilization Program.

Attachment 3 – Rent Stabilization Program FY 2016/17 “line item” 2/3-year update and FY 2017/18 “Status Quo” budget.



Supplement to Item 7.a.1

Rent Stabilization Board

DATE: May 15, 2017

TO: Honorable Members of the Berkeley Rent Stabilization Board

FROM: Jay Kelekian, Executive Director *JK*

SUBJECT: **Initial background for proposed one-time crease in registration fees to develop online registration & upgrade the Rent Tracking System (RTS)**

At our recent budget workshop, the Board discussed the initial recommendation from staff and the Budget and Personnel Committee, to increase the FY2017/18 registration fee. Part of the fee recommendation was the assessment of a one-time additional increase of either \$20 or \$25 to add online registration capacity and to complete upgrades to the existing RTS database. Over the years, we have discussed these items often at the Committee but some Board members (particularly newer members) may not be as familiar with the discussions. Board members, very wisely, requested additional background information on what types of improvements are being considered and what would be the benefit to the agency and the public we serve.

The RTS database modules that have been utilized to date have helped enable the Program to respond to increased demand and expectations. However, over the past three years using RTS, staff has identified over eighty potential areas that can be upgraded, tweaked or otherwise improved. We have discussed the potential benefits to online registration for several years. This memo is intended as an initial, "high-level", overview of some of that discussion. Staff is still gathering background and more detailed estimates which we hope to present to the Board in June or early summer. The Board will have review and approval authority for any significant change or contract obligation over \$15,000.

Online Registration development and Rent Tracking System (RTS) upgrades will:

- Allow owners to register and change information online at their convenience
- Allow an interactive on-line payment of fees (even if not paying the amount billed)
- Provide enhanced online information on the history of specific rental units
- Make information more accessible and easier to analyze
- Assist the Rent Stabilization Board to provide the City of Berkeley with accurate and necessary information to achieve affordable housing initiatives and efforts such as U1
- Enable improved communication through website and use of social media
- Further improve cost effective and environmentally friendly electronic communication
- Save staff time and help contain costs and future increases to the fee

Allow owners to register online at their convenience: Online registration will streamline the process of registration. Registration is currently completed through the mail or in person at the Rent Stabilization Program office. By May 15th of each year the Rent Stabilization Board is required to determine the annual registration fee. In late May, the Rent Stabilization Program sends a letter to each property owner and includes a billing statement, fact sheet, return envelope and a Unit Status Form with instructions. The letter explains the fee and increases and a direct pass through, if any. Payments must be received or postmarked by July 1st or a 100% penalty will be assessed. The Unit Status Form may or may not be updated each year. While as clear as possible, the current billing process leads to a high volume of inquiries to the Rent Stabilization Program staff. Additionally, units that are available for rent but not yet rented must be registered by July 1st of each year. Any tenancy not yet reported must file a Vacancy Registration form within 15 days of the date of rental. An online process of registration will be designed to guide property owners through a clear step by step process. Staff processes over 5,000 Vacancy Registrations a year as well as several thousand other changes to the status of a unit. At present, these are all entered manually by the staff in the Registration Unit.

Allow on-line payment of fees (even if not paying the amount billed): Registration fees are determined in May. Currently, property owners may pay fees by mail or in person using a check, cash or credit card. Since May 2016, property owners have also been able to pay by credit card or e-check online, but only if the bill is paid in full and there are no adjustments to the account. Other than paying the exact amount of a bill, the online experience is limited to “read only/look-up” functions. To enact any change to the status of a unit or a bill, in most cases the property owner must come in or call the office. Connecting the online payment system to the new online registration system will assist with the registration process by opening up the online option to those accounts that are reporting changes to their accounts.

Provide enhanced online information on the history of specific rental units: As explained above, a Unit Status Form provides important information on the owner, agent, contact information including mailing address, phone and e-mail, property address, unit information, unit rental status and tenancy information. While the Rent Stabilization Program currently tracks this information, allowing property owners to update information any time throughout the year at their convenience online will lead to improved accuracy of the data. The online registration data will be verified and added to the unit specific rental history data in the current and upgraded Rent Tracking System.

Make information more accessible and easier to analyze: The development of online registration connected to online payment and the cross referencing of this updated information with the existing and enhanced data in our Rent Tracking System will assist the Rent Stabilization Board in accessing reports and analyzing issue specific information and trends to provide better services.

Assist the Rent Stabilization Board to provide the City of Berkeley with accurate and necessary information to achieve affordable housing initiatives and efforts such as U1: The Rent Tracking System historical and current data on property owners, tenants, and rental units may assist the City of Berkeley achieving the goals of U1 and other cross departmental housing and affordable housing initiatives.

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Enable improved communication through website and use of social media: Online registration and payment will increase the number of property owners and tenants that we are able to reach out to through our website and social media with more detailed information on their rights and responsibilities.

Further improve cost effective and environmentally friendly electronic communication: Online registration on payment can dramatically increase the number of property owners and tenants that receive information online or through social media and will reduce mailings to provide information on registration, billing and education. This will increase our message and reduce printing and postage related costs.

Save staff time: At present, we dedicate between 4 to 4.5 full-time equivalent (FTE) staff to collecting, depositing and reconciling fees as well as receiving and entering changes to the database. Staff then takes the information entered and mails it to the landlord and tenant. Providing a clear step by step process online to register units, process registration fees and track rental information will reduce confusion, improve accuracy and increase efficiency. As described above, property owners will be able to register and pay fees online at their convenience, accurate online information will be enhanced and accessible, and the reduction in mailings will provide improved and environmentally friendly electronic communication.

FINANCIAL IMPACT:

Staff is still defining the potential requirements and improvements desired and exploring options for how to best implement them in FY2017/18. Initial estimates indicate that the addition of an interactive online registration process as well as the changes to the existing system identified thus far, may cost in the range of \$375,000 - \$400,000. Naturally, we will continue looking at ways to reduce this cost before we come to the Board with a specific proposal.

NAME AND TELEPHONE NUMBER OF CONTACT PERSON:

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