

Berkeley Rental News

WINTER 2006

THE NEWSLETTER OF THE BERKELEY RENT STABILIZATION BOARD



BERKELEY RENT STABILIZATION BOARD

www.ci.berkeley.ca.us/rent/

COMMISSIONERS

Jesse Arreguin
Howard Chong, Chair
Robert Evans
Jack Harrison
Chris Kavanagh
Jason Overman
Pinkie Payne, Vice Chair
Selma Spector
Eleanor Walden

EXECUTIVE DIRECTOR

Jay Kelekian

EDITOR

Allison Pretto

RENT BOARD OFFICES

2125 Milvia Street
Berkeley, CA 94704
Phone: (510) 644-6128

Regular Rent Board Meeting Schedule

Starting in 2006, meetings of the Rent Stabilization Board will be held on the third Monday of each month, except holidays. When a Board meeting falls on a holiday, it has traditionally been rescheduled to the following Thursday. Meetings take place at 7:00 p.m. in the City Council Chambers, 2134 Martin Luther King Jr. Way. For 2006, meetings are scheduled for the following dates:

Thurs. Jan. 19	Mon. July 17
Thurs. Feb. 23	Mon. Aug. 21
Mon. March 20	Mon. Sept. 18
Mon. April 17	Mon. Oct. 16
Mon. May 15	Mon. Nov. 20
Mon. June 19	Mon. Dec. 18



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 now also be viewed on the Web! Visit the Rent Board's home page at www.ci.berkeley.ca.us/rent/ and click on "2006 Regular Meeting Schedule."

What is Rent Control?

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. With few exceptions (see below), even units not covered by rent controls are guaranteed eviction protections. The Rent Ordinance can be broken down into four basic components:

Stable Rent

Rent increases during a tenancy are still controlled in Berkeley, even though, since Jan. 1, 1999, landlords have been able to establish new 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). Additional rent increases may not be imposed unless the landlord files a petition for individual rent adjustment and the Board deter-

mines that an additional rent increase is warranted.

Eviction Protection

Berkeley's Rent Ordinance provides eviction protection. A Berkeley landlord must have "good cause" to evict a tenant. Eviction restrictions are designed to prevent arbitrary, discriminatory or retaliatory evictions. For more information, please see story below.

Security Deposit Interest

Berkeley's Rent Ordinance requires landlords to pay interest on tenants' security deposits each December. They must also pay interest on the deposit whenever a tenant vacates a unit. Please see story below for more information.

Stable Services and Habitable Conditions

While state law and the Berkeley Rent Ordinance require landlords to maintain their rental units in a habitable condition, Berkeley's ordinance also requires landlords to continue to provide all base-year services for the entire tenancy. If a landlord discontinues a base-year service, the tenants may be entitled to a corresponding rent ceiling reduction. Please see Page 2 for an overview of the rights

and responsibilities of both tenants and owners regarding habitability.

How is Your Unit Covered by the Ordinance?

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

Units constructed after June 30, 1980, Section 8 units and most single family homes (including condos) are partially covered by 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.

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 in a "golden duplex" (a 2-unit property where a 50% owner of record occupied one unit on Dec. 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!

Understanding No-Fault Eviction Protections

Inquiries from tenants reveal that they commonly have misconceptions about their rights and whether they are obliged to move out. Often, tenants asked to leave a unit are not required to do so. Berkeley's rent ordinance sets forth a list of "good causes" for eviction.

Most people understand that tenants may be evicted if they do not pay the rent or if they violate other basic obligations of their tenancy by substantially damaging the premises or continually destroying the peace and quiet of other tenants. Nevertheless, the laws regarding evictions of tenants in good standing are not as well understood.

Tenants asked to vacate their units should contact the Rent Board immediately to understand what if any rights, obligations and/or protections they have. Owners contemplating an eviction should also contact the Rent Board. Contacting the Rent Board is essential because limitations on evictions are governed by a complex set of state laws and other sections of the municipal code as well as the Rent Stabilization ordinance.

A housing counselor will walk you through applicable laws, but remember that the final adjudication for all eviction lawsuits (Unlawful Detainers) will take place in Superior Court.

Especially in the case of smaller buildings, an apartment owner may desire to evict a tenant for the purpose of owner or family occupancy or in order to go out of the rental business. Berkeley's rent control ordinance permits evictions of tenants in good standing for very limited circumstances and provides for special requirements as a condition to undertaking such evictions. The following discussion describes the rules regarding some of these types of evictions.

Limitations on Owner Occupancy Evictions

It is critical to understand that the right to evict for owner occupancy is



The Rent Stabilization Program's friendly staff is always available to answer your questions on rent control and eviction protections.

Security Deposit Interest

Virtually all Berkeley tenants are entitled to interest on their security deposit. When it comes to these deposits, property owners have two obligations: 1) Each December, owners must pay interest on tenants' deposits; 2) whenever a tenant vacates a unit, the property owner must pay the bal-

Continued on Page 3

Continued on Page 3

City of Berkeley Habitability Guide

For the past several years, preserving, maintaining and improving the quality and safety of Berkeley's housing stock has been a priority for the City. This is not an easy task, as many homes and apartment buildings in Berkeley are aging (some are more than a hundred years old) and require constant care and maintenance.

The City, with the support of the Rent Board, has implemented a series of initiatives to improve the safety of Berkeley housing stock. Since the early 1990s, a major focus for the City's elected and appointed officials has been reducing the risk of death, injury and/or damage in a large earthquake. More recently, Berkeley residents have seen increased efforts to enforce and strengthen City housing codes for rental units. To further this goal, in 2001 the City established the Rental Housing Safety Program, which requires virtually all owners of rental housing to annually inspect and certify that rental units meet prescribed safety requirements.

Generally, it is in both the tenant's and the owner's interest to address repair issues as soon as they arise. Tenants clearly benefit because the sooner a repair is made, the sooner s/he has full use of a safe and livable unit. Owners also benefit because the rental unit is a substantial investment and the sooner a repair is made, the less damage to the building and potential cost for making the repair. In addition, quick repairs reduce the owner's potential liability to the tenant for damage or impairment.

We have found that, in most cases, tenants and owners are able to resolve issues of repair and maintenance without complications. The section below provides some tips for both owners and tenants about how to avoid habitability problems, and when they do arise, how to get the repairs made quickly. If a problem arises, you should not ignore it – instead, we recommend that you communicate directly and politely with the person responsible. In most cases, using the techniques suggested below will resolve the problem.

Initial Steps for Avoiding or Resolving Repair Problems:

Tenants:

1. Inspect the unit at the beginning of the tenancy and note problems to the owner in writing.
2. Keep the rental unit clean and sanitary.
3. Expect your unit to be inspected by the owner for compliance with the Rental Housing Safety Program by July 1st every year. Review the certification; contact your owner and the City if it is inaccurate.
4. Request repairs immediately when a problem arises.
5. Send the owner a written follow-up to document your request. Sample letters are available at the Rent Board. Keep copies of all correspondence.
6. Allow the owner access to enter the unit during normal business hours to perform repairs.
7. Avoid making any alterations to the unit or any structure on the rented property without written permission from the owner.

Owners:

1. When contacted by the tenant, arrange for repairs right away.
2. Give tenants 24 hours' written notice before entering a unit to make repairs.
3. Complete Rental Housing Safety Program certification each year in a timely manner. Give a copy to the tenant by July 1st. You may wish to send it with a certificate of mailing for proof that the inspection was performed timely.
4. Comply with the City Noise Ordinance when making repairs. Permissible hours for construction noise are 7 a.m.-7 p.m. Respect the tenant's right to quiet enjoyment.
5. Always get necessary permits when making repairs.



If the other party is not responsive or the problem persists, you may need to take more formal action to get the situation resolved. We have included some options if you find that you are unable to resolve a repair issue with your owner or tenant. Rent Board counselors are always available if you have questions about whom to call or what to do so that the appropriate repairs get made.

Possible Steps if You Are Unable to Resolve a Repair Issue:

Tenants:

1. Request a housing inspection with Housing Code Enforcement. Show the inspector all the problems in the unit, and ask him/her to make note of each problem in their report even if it is not considered a code violation.
2. Repair and deduct in accordance with Civil Code 1941.1. (See step-by-step guide on how to do this properly below.)
3. File a Rent Board petition for a rent reduction if the owner has failed to provide adequate housing services, comply with housing codes or the warranty of habitability, or if substantial deterioration of the unit has occurred.
4. File a claim in Small Claims Court if the matter can't be resolved directly with the owner.

Owners:

1. Request the City do Rental Housing Safety Program certification if tenant will not allow entry in order for the inspection to be performed.
2. Use the City Relocation Program as a resource to determine your obligations when extensive repair work is necessary and may require the tenant to move out.
3. If the tenant has made the repair necessary by causing damage to the unit, make a written request for payment for the reasonable cost of repairing the damage. While deduction from the security deposit is permitted for damage, consider filing a claim in Small Claims Court for earlier restitution. Causing damage to the rental property and refusing to pay for the repairs could constitute a good cause for eviction.

Note: Section 8 housing guidelines may differ. Contact the Berkeley Housing Authority for more information at (510) 981-5470.

According to State Law and Berkeley Municipal Code Chapter 13.76,

All Rental Units Should Have:

- | | |
|------------------------------|---------------------------------------------------------------|
| 1. Smoke Detectors | 6. Hot and Cold Running Water |
| 2. Operable Windows | 7. Easy Access to Exits |
| 3. Appropriate Door Locks | 8. A Functional Heating System |
| 4. A Roof with No Leaks | 9. A Functional Electrical System |
| 5. A Functional Sewer System | 10. A Resident Manager (if the building has 16 or more units) |

Repair and Deduct

Review the risks and limitations that are associated with using this remedy at: www.dca.ca.gov/legal/landlordbook/repairs, or call the Rent Board to discuss your options with a Housing Counselor.

Step 1: Write a letter to your landlord requesting the repairs that are needed, and state that he/she must have them made within a reasonable time frame. Thirty days is standard for non-urgent repairs.

Step 2: Make a photocopy of the letter for yourself and send the original to the owner after getting a certificate of mailing from the post office. Store the letter and the certificate of mailing in a safe place.

Step 3: If your landlord has not made the repairs within 30 days of your written request, arrange for the repairs yourself. Photograph the area needing repairs both before and after the repairs are made. Store the receipt for the repairs along with the original request and certificate of mailing.

Step 4: When your next rent payment is due, deduct the cost of the repairs for which you arranged and include copies of the receipts.



Evictions, continued from Page 1

not automatic and that there are extensive restrictions on such rights in order to curb abuses.

Among the most significant restrictions on evictions for occupancy by a landlord or spouse, child, or parent are that: 1) the landlord must plan in good faith to either occupy or have a relative occupy the unit for at least 36 months; 2) there cannot be an eviction if the landlord owns a comparable unit that is available in Berkeley; 3) a "low-income" tenant who has resided in the unit for over a year is entitled to \$4,500 in relocation assistance; 4) there are significant limitations on the ability to evict a tenant who is either over 60 or disabled and has lived on the property for five years or more.

Protections for Tenants in Buildings Converted to Condominium

In 2005, the city amended its condominium conversion ordinance to permit the conversion of 100 units per year. **Tenants cannot be required to move because a building is being converted to condominiums.** As a precondition to the right to convert, an owner must offer each of the tenants a lifetime tenancy. Such tenancies would remain in effect independently of any other city law including the rent ordinance and would not be subject to owner-occupancy evictions.

Tenants in Buildings with Tenancy in Common (TIC) Ownership

In some cases a group of owners purchases a multi-unit building as a

tenancy in common (TIC), assigning rights of occupancy to each unit. TIC arrangements differ from condominium ownership because each owner holds a percentage of the whole building rather than sole ownership of a specific unit. **It is essential to understand that an owner with less than a 50% interest in a property cannot legally evict for owner occupancy.** This situation would typically occur in a TIC building with more than two units because the ownership is generally divided equally among more than two owners.

Limitations on Evictions in Order to "Go Out of Business"

Under state law (the Ellis Act) landlords have a right to go out of the rental business. However, the right to evict for this purpose is subject to the condition that a landlord provide lengthy notice and relocation payments. The Ellis Act is explained in more detail on the Rent Stabilization Board's Web site.

Limitations on Changes in the Rules for a Tenancy

Sometimes a landlord will attempt to impose a change in the conditions of a tenancy in order to place a tenant in breach of his/her tenancy obligations and, therefore, obtain a just cause for evicting the tenant. The Rent Stabilization Ordinance places substantial restrictions on changes in the obligations or rules governing a tenancy.

Security Deposits, continued from Page 1

ance of interest earned along with any appropriate refund of the security deposit within three weeks of the date the tenant vacates the unit. Both landlords and tenants can easily calculate the amount of interest due at any time of the year by using the interest rate calculator on the Rent Board's Web site at www.ci.berkeley.ca.us/rent/.

In November 2004, Berkeley voters overwhelmingly adopted Measure P. The measure was intended to benefit both landlords and tenants. Landlords would be free to keep the deposits as they wished, and they no longer were required to incur the cost of placing deposits in separate accounts and to calculate the precise amount earned to pass along to tenants. Meanwhile, tenants would receive a return on their deposits comparable to the return that they could earn if they had been able to retain the deposit instead of giving it

to the landlord as security. The interest rate for 2005 was 3.4%.

...And it's now overdue

If the tenant does not receive security deposit interest by Jan. 10th of each year, Rent Board Regulation 704 entitles the tenant to 10% simple interest on the amount of the security deposit for the previous year. In order to collect the interest at this rate, the tenant must give the landlord written notice of intention to deduct interest from a future rent payment. The landlord may respond by paying the interest at the rate of 10%. If the landlord does not respond within fifteen days of the notice, then the tenant may deduct the interest from the next month's rent payment. If the interest on a tenant's security deposit has not been paid for more than one year, you may wish to contact one of our housing counselors to assist you in calculating the amount owed. ■

Update of Market Rents

The following are median rents for new tenancies started from Oct. 1-Dec. 31 2005, as reported to the Rent Stabilization Board. We have received 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.

Median Rents

Studio: \$835	2 BR: \$1,350
1 BR: \$1,050	3 BR: \$1,900

**ASK THE RENT BOARD**

Question: The roof of my apartment building leaks. During the last rainstorm, water leaked through the bedroom ceiling, which is now sagging. I notified the landlord, but nothing has been fixed. What are my rights?

Under California Civil Code 1941.1 and Berkeley Municipal Code, you have a right to a weatherproof apartment, and the right to a habitable dwelling is implied in every lease. If your apartment fails to meet these requirements, it is important that you take some action to get the problem fixed. You may be entitled to some compensation for the impairment the leaky ceiling has caused. Here are steps we recommend tenants take to get problems in their units fixed:

Notify the Landlord. Make a written request to your landlord for repairs. Telephoning is fine, and essential in an emergency, but written proof of making the request is important, especially if your landlord is not responsive. So if you telephone your landlord about a problem, follow up with a letter. Keep signed copies of all your correspondence. If you don't notify the landlord of a serious problem that results in damage that was preventable with earlier notification, you risk being held responsible for some of the damage done to the apartment.

Document the Problem. If possible, take photos of or videotape the problem. If you file a petition with our office, or later have a dispute in court about who is responsible for the damage, you'll need to demonstrate that there was (or still is) actually a problem.

Request a Housing Inspection. For structural or weatherproofing

problems that you suspect violate housing or building codes, if the owner does not respond, call the City's Housing Enforcement Division for a housing inspection at 981-5444. If the inspector cites the landlord for a code violation, the City can charge the landlord for inspection fees if the problem goes unrepaired. Also, the inspector will issue a report about all cited violations, which will serve as additional evidence of the problem.

Petition the Rent Board. File a petition at the Rent Stabilization Board seeking a rent reduction if the landlord still refuses to make repairs, or if you and the landlord can't agree on some compensation for the inconvenience you suffered. If, at a hearing, you prove the existence of the leak and can show how it affected your use of the bedroom (say, you had to move furniture and couldn't use part of the room), you're probably entitled to a rent reduction. This reduction will apply from the time the landlord had notice of the problem until it was fixed; if the repair isn't made by the time of the hearing, the rent reduction will stay in effect until the landlord proves that it has been fixed.

The Rent Board cannot, however, compensate you for any costs you might have incurred to replace personal belongings damaged by the leak. If your landlord does not agree to reimburse you for your losses, see if he or she will agree to mediate the matter through East Bay Community Mediation (EBCM). Otherwise, you will have to file a suit in Small Claims Court to recoup your costs. For more information about EBCM, call 548-2377 or visit www.ebcm.org. For Small Claims Court information, call 893-7160.

Message from the Director



A Year of Change and Improvements

2005 proved to be an extremely dynamic year, full of change and progress. In addition to implementing the changes brought about by Measures O and P, the

Rent Stabilization Board has focused its efforts on advising the City Council on several important affordable housing policy issues, improving our regulations and increasing accessibility and transparency to the public.

Affordable Housing Policy

The Board weighed in on three extremely important issues that had the potential to dramatically affect housing affordability in Berkeley. Changes to Berkeley's Condominium Conversion Ordinance, Ellis Bill Ordinance and a new Soft Story Ordinance had the potential to displace many tenants currently protected by rent control. Fortunately, the Council adopted almost all of the Board's recommendations on these three new measures.

Board Changes Rules to Help Hurricane Katrina victims

In response to calls from owners, the Rent Board made it easier for property owners to assist victims of hurricanes Katrina and Rita in need of housing. The Board adopted an emergency regulation allowing landlords to offer rental units for a designated period of time at

below-market rates to people who have evacuated the areas of devastation. The regulation will cover rentals going back to August 29th, when the Gulf Coast was first declared a disaster area. Call us for details.

Pet Deposits

The Rent Board has changed its rules on security deposits for pets. Landlords, long prohibited from increasing the amount of security deposit held for any reason, may now ask for an additional deposit if the landlord and tenant agree that the tenant may have a pet when the original lease prohibited pets. Nevertheless, the total deposit held by the owner may not exceed two months' rent.

Increased Public Access

For many years all Board meetings have been covered on both television and radio. Recently, the Board has made two important improvements in public access by having all meetings closed captioned, making it easier for those who are hearing impaired to keep up with the Board's activities. The Board has also begun providing live and archived Webcasting of all meetings on our Web site. Webcasting offers a convenient way for citizens to keep up with meetings from the comfort of their own home by checking the meetings on the Rent Board's Internet site at www.ci.berkeley.us/rent/. (Click on "2006 Regular Meeting Schedule.") ■

Jay Kelekian, Executive Director

Upcoming Workshops

The Berkeley Rent Board regularly hosts workshops to offer a forum for landlords and tenants to learn more about their rights and responsibilities. All workshops will be held at Rent Stabilization Board offices in downtown Berkeley, 2125 Milvia St. Upcoming workshops include:

What is Rent Control?

March 15, 2006 @ 5:30

Rights and Protections under New TIC/Condo Conversion Law

March 29, 2006 @ 5:30

¡SE HABLA ESPAÑOL! INQUILINOS Y DUEÑOS:

Si usted gusta esta informacion en espanol, favor de llamar la oficina de control de rentas y preguntar por

DAHL SHANNON ◦
MATT BROWN
644-6128

- What's inside this issue of the Berkeley Rental News...
- Know your protections when it comes to evictions
- Habitability Guide
- Update of Market Rents
- A Year of Change

CONTACT INFORMATION:
Phone: (510) 644-6128
Fax: (510) 644-7723
TDD: (510) 981-6903
E-mail: rent@ci.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



PRSR STD
US POSTAGE
PAID
BERKELEY, CA
PERMIT #18

Berkeley Rental News

WINTER 2006

THE NEWSLETTER OF THE BERKELEY RENT STABILIZATION BOARD



Announcements

2006 AGA

It's a new year, and that means qualifying landlords can raise rents using the Annual General Adjustment (AGA). On Oct. 17, 2005, pursuant to Measure O and the agreement made with the Berkeley Property Owners' Association, the Rent Board voted to allow eligible landlords to increase the 2005 permanent rent ceilings by 0.7% (7/10ths of 1 percent) for 2006. The new AGA applies to all units covered by the Rent Ordinance except those for which an initial rent was established pursuant to the Costa-Hawkins Rental Housing Act on or after Jan. 1, 2005.

Ellis Law Changes

In November 2005, the Berkeley City Council, following a recommendation from the Rent Board, passed an amendment revising rules governing relocation fees that landlords must give to tenants if the owner is going out of the rental business. Under the amendment, landlords must give \$4,500 to tenants of each unit; the payment can then be divided amongst the tenants. In addition, low-income, elderly or disabled tenants are entitled to an extra \$2,500 from the owner.

If you or anyone you know has received an eviction notice from a landlord because the unit is being removed from the market pursuant to the Ellis law, give one of our housing counselors a call.

Funds Available for Lead Hazard Repair Work

The Alameda County Lead Poisoning Prevention Program has received a federal grant to help property owners pay for lead hazard repair work. More than \$1 million is available to make 200 units of housing lead safe. Eligible lead hazard repair work may include painting exteriors and interiors, repairing windows and doors, and landscaping.

Owners of pre-1978 rental housing with low-income tenants (or vacant units) in Berkeley, Oakland or Emeryville are encouraged to apply. To learn more, call 567-8280, or visit www.achpp.org. Or, you can also attend one of two free information sessions on Feb. 9, 6:00-8:00 p.m., at the Oakland Housing Authority, 1619 Harrison St., Oakland; or March 1, 6:00-8:00 p.m., at the Alameda County Lead Poisoning Prevention Program office, 2000 Embarcadero #300, Oakland.