

Berkeley Rental News

WINTER 2005

THE NEWSLETTER OF THE BERKELEY RENT STABILIZATION BOARD



BERKELEY RENT STABILIZATION BOARD

www.ci.berkeley.ca.us/rent

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RENT BOARD OFFICES

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

Regular Rent Board Meeting Schedule

Meetings of the Rent Stabilization Board are generally held on the first and third Mondays of the month, except holidays at 7:00 pm in the City Council Chambers, 2134 Martin Luther King Jr. Way. **When a Board meeting falls on a holiday, it has been traditionally rescheduled to the following Thursday.**

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.

¡SE HABLA ESPANOL!

INQUILINOS Y DUEÑOS:

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

**DAHL SHANNON @
644-6128 EXT. 124**

Message from the Director



owners a fair return on their investment.

Also unchanged is the Rent Stabilization Program's commitment to accurate and unbiased service to all our clients (tenants and owners alike) and the commitment to assist parties in resolving issues early and with as minimum of conflict as possible. Over the past several years, we have served the public in four key ways:

Education—I've been told several times that Berkeley has the best-informed tenants and owners in the country. As someone who has worked for the City for over twenty years, I can assure you that this was not always the case. As education and outreach have increased the number of cases requiring formal hearings has decreased. In addition to mailing every new tenant and landlord a comprehensive Guide to Rent Control booklet, we provide several informational mailings and newsletters to owners and tenants each year. My staff maintains a terrific web site that is one of the most heavily used in the City of Berkeley. Finally, we don't limit our educational outreach to rent control but also try to keep the community informed about important related topics such as the Rental Housing Safety Program changes in state law and the upcoming community discussions concerning soft story buildings.

Counseling—Each month, our counselors assist between 800-1,000 clients by phone, email or in person.

Impacts of Voter Approved Rent Law Changes

On November 2nd, Berkeley voters were presented with two important Measures designed to simplify, streamline, and when appropriate, strengthen the city's Rent Ordinance. Receiving substantial support from both tenants and property owners, both Measures passed convincingly. Measures P and O incorporate changes that affect annual rent increases, interest given on security deposits, evictions alleging illegal subletting, and rent control protections for a limited number of Section 8 tenancies among other things. The following articles provide a brief explanation of how these two Measures will apply to Berkeley's rent-controlled units. As always, housing counselors are available at 644-6128 to answer any questions you may have regarding these topics.

Measure P

Security Deposit—Requirement to be deposited in a particular type of account eliminated and interest rate to

While the November 2004 election brought about the most significant voter approved changes to the Rent Stabilization Ordinance in over 20 years (see article below), the core purpose of the Ordinance remains unchanged – to provide some stability in the lives of renters while guaranteeing property

Counseling is usually done on a one-on-one basis but can also be done in a group setting. In addition to providing information about the Rent Ordinance and state law, Rent Board counselors are increasingly able to assist in facilitating productive communication and problem solving between parties. Counselors may provide literature or offer clients sample letters relevant to their situation, or if desired call the other party and offer additional services.

Mediation—Our staff is available to provide informal or formal mediation for a variety of landlord/tenant disputes. If preferred, we can refer you to another agency that can assist in dispute resolution or mediation.

Administrative Hearings—Despite our efforts, not all disputes between tenants and owners can be resolved informally. Either party in a dispute retains the right to file a petition with the Board. Last year, we received approximately 175 petitions requiring a formal hearing. After hearing testimony and reviewing evidence submitted by the landlord and tenant, a Hearing Examiner will issue a written decision that is binding on both parties.

The Rent Ordinance remains a vital cornerstone to the City of Berkeley's efforts to provide safe, stable and secure housing to over half our citizens. There are approximately 27,000 rental units in Berkeley. Portions of the Ordinance (eviction protections and/or interest on security deposit) apply to the vast majority of rental units, even if otherwise exempt from rent controls. If you are not sure if your unit is covered, please give us a call at 644-6128.

Finally, I am interested in personally hearing your feedback on the service you received at the Rent Board as well as your constructive suggestions for how we can improve our operations. In addition to the number above, I can be reached at jkelekian@ci.berkeley.ca.us. ■

Jay Kelekian, Executive Director

Take the Berkeley Rental News QUIZ...

Selected winners will be acknowledged in the next issue of the *Berkeley Rental News*.

1. What are the benefits of the changes to the Security Deposit Interest law?
2. Who are the new Board members elected for the 2005-2008 term?
3. What is a soft story?
4. Which Berkeley law change reinforces the Good Cause for Eviction Ordinance?
5. When is interest on security deposits due?

Send in your answers to Berkeley Rent Board, 2125 Milvia Street, Berkeley, Ca 94704.

Five winners will be selected from respondents. ■

Continued on Page 3

2005 California State Law Changes

The 2004 Legislature enacted no major changes to state landlord-tenant law, but did pass or extend several important tenant protections.

• **Landlords cannot demand that rent be paid in cash unless the tenant has bounced or stopped payment on a rent check.** While rent control cities and legal aid groups pushed for the introduction of Senate Bill 115, landlords eventually dropped their opposition because they, too, were victims of unscrupulous property managers who, especially in the inner cities, did not provide receipts and pocketed rent payments made in cash. Additionally, this measure will spare the elderly and other vulnerable tenants from having to carry around large amounts of cash.

Landlords have recourse under this new law (Civil Code Section 1947.3)

if a tenant's check is dishonored. A landlord who suffers a bounced check or one that a tenant stops payment on may require that the tenant pay rent in cash for up to three months. To do so, a landlord must give written notice that the check was dishonored, attach a copy of the bad check, and tell the tenant how many months (up to three) that only cash will be accepted. If these requirements change the lease terms, then the notice must be given in accordance with Civil Code section 827 (typically, at least 30 days in advance).

Existing protections extended

Senate Bill 1145, authored by San Francisco's State Senator John Burton, continues two important tenant safeguards that were established in 2000 but set to expire without this legislation.

• **Sixty-day notice require-**

ment for large rent increases.

Landlords are required by Civil Code Section 827(b) to provide 60 days' notice of a rent increase that is more than 10 percent greater than the rent charged any time during the prior 12 months. Because large rent increases can significantly affect tenants, this measure was passed to give tenants a longer period to respond (30 days' notice is required for smaller increases) by, for instance, augmenting their income, finding a roommate or moving. This provision was originally set to expire at the end of 2005.

• **Discrimination on the basis of source of income prohibited under the Fair Employment and Housing Act.** Also, a land-

lord is prohibited from ignoring the aggregate income of coresidents and from excluding a government rent subsidy from the portion of rent to be paid by the tenant, when assessing eligibility for rental housing. (Government Code Section 12955((n), (o) and (p).) These measures, which were to sunset at the end of 2004, are designed to prevent landlords from unfairly downgrading potential tenants' ability to pay rent if they receive government assistance or if the household is composed of several wage earners. Under the Fair Employment and Housing Act, a person alleging discrimination in housing may seek redress by filing an administrative complaint with the state Department of Fair Housing and Employment or by bringing a civil lawsuit. ■

Local Security Deposit Interest Law

Virtually all Berkeley tenants are entitled to interest on their security deposit.

Landlords are required to pay tenants the interest on their security deposits each December. Once the tenant has vacated the unit, the property owner must pay the balance of interest earned along with any appropriate refund of the security deposit within three weeks of the date the tenant vacates the unit.

... And it's now overdue

If the tenant does not receive security deposit interest by January 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 October 1–December 31, 2004, 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:	\$825	2 BR:	\$1,295
1 BR:	\$1,000	3 BR:	\$1,750

Comings and Goings . . .

On November 15, 2004, the Rent Board bid farewell to outgoing Commissioners Judi Ann Alberti, Max Anderson, and Paul Hogarth. Rent Board members, staff, friends, and family attended the Berkeley Rent Board meeting to honor the outgoing Commissioners. Council members Kriss Worthington and Dona Spring also joined the meeting to personally thank each member for their exceptional service. Combined these Commissioners served sixteen years on the Berkeley Rent Board, and their service is admirable.

These outgoing Board members have been replaced by:

In the last months of 2004, the Rent Board said goodbye to two valuable staff members. Last October, the Public Information Unit Supervisor, Tom Brougham retired after nearly sixteen years of service with the Berkeley Rent Board. His contributions are greatly appreciated and dearly missed by the Berkeley Rent Board community. Rent Board Commissioners and staff would like to thank Tom for his dedicated service and wish him the best.

We also bid farewell to Laurie Wonnell, who served as a Housing Counselor for almost four years. Mrs. Wonnell moved on to other endeavors in September, and we also wish her the best.



Jack Harrison



Jesse Arreguin



Jason Overman



Eleanor Walden

In addition to the three newly elected Board members, Eleanor Walden was elected and continues to serve as a Board member, after serving the remainder of Commissioner Matthew Siegel's unexpired term of office. Other changes to the Board include Howard Chong replacing Max Anderson as Chairperson, and Pinkie Payne replacing Paul Hogarth as Vice-Chairperson.

Nicholas Traylor has joined the Rent Board as our newest Housing Counselor. He joins us from the Department of Parks and Recreation having served as Director of James Kenney Recreation Center for five years. His history of work in the community should be a great contribution to the Rent Board as he serves as a Housing Counselor with an emphasis on community outreach.

Rent Laws, continued from Page 1

restrictions, while maintaining the tenants' right to fair interest on their security deposit. The new interest rate will apply to all eligible tenants, so they will now know what interest to expect. Meanwhile, property owners are relieved of the hassle of calculating bank rates, and producing bank statements upon request.

Section 8—*New protections from rent increases.*

Section 8 tenancies where a landlord seeks to raise the rent above the maximum rent that is subject to federal subsidy, i.e. "the payment standard", would be regulated by the Rent Board and subject to registration requirements. Previously, all Section 8 tenancies had been exempt from all registration and rent ceiling sections of the rent ordinance. The new law requires landlords who raise the rent above the Housing Authority's payment standard to register with the Rent Board and thus be bound by the Annual General Adjustment increases of all rent controlled units.

Subletting—*Owners can not unreasonably deny replacement roommates.*

This change in the law offers additional reinforcement of the Good Cause for Eviction requirements of the Ordinance. It is intended to protect tenants from the handful of owners that make it impossible for the master tenant to continue the tenancy because the owner is insistent on increasing the rent for a sublettor.

For purposes of evicting a tenant pursuant to Good Cause Required for Eviction (Rent Ordinance Section 13.76.130A.2.), subletting is not considered a substantial violation of a material term of a lease agreement. In other words, a landlord is not able to evict a tenant if the tenant permits occupancy by a sub-tenant when it can be proven that the landlord unreasonably withheld consent to sublet. In order for this protection to apply, the original tenant must remain an actual occupant of the rental unit and the number of tenants may not exceed the base occupancy level established at the inception of the tenancy. A landlord will be deemed to have unreasonably withheld consent to sublet if: 1. the tenant's written request for consent to sublet was provided to the landlord at least two weeks prior to the subtenant's occupancy; 2. the proposed new subtenant has completed the landlord's standard form application or provided sufficient information for a background check; 3. the proposed new subtenant meets the landlord's customary occupancy qualifications and has not refused the landlord's request to be bound by the terms and conditions of the current rental agreement; and 4. the landlord has not given a well-founded written explanation for refusing consent.

Criminal Penalties—*Violations that result in criminal penalties*

reduced.

The revision limits criminal penalties to those landlords who attempt to wrongfully evict tenants or otherwise abuse the Good Cause Required for Eviction section of the Rent Ordinance. The ordinance previously provided that landlords would be subject to criminal penalties for willful violation of any provision of the Rent Ordinance. A landlord who is found guilty of a willful violation of Section 13.76.130 of the Rent Ordinance (Good Cause Required for Eviction) will be subject to criminal penalties including fines and possible jail time.

Rent Board Records—*Now accessible by other City departments.*

The City of Berkeley will now be able to use information from Rent Board files to enforce other City ordinances. Previously, this information was available to anyone except other City of Berkeley employees. This change will allow all departments within the City of Berkeley to work together and provide improved service to residents by avoiding costly duplication of efforts.

Exemptions—*Additional categories created.*

Two additional exemption categories have been added. Rental units owned by non-profit housing organizations that receive government funding (federal, state, or city) will now be considered exempt when they rent to low income tenants.

Rental units owned or leased by non-profits for purposes of treatment are now exempt. This includes recovery programs, shelters, and any other type of sanctuary that provided temporary relief for the participant. The exemption does not apply if the tenant no longer qualifies to receive the treatment. These units are not exempt from the Good Cause for Eviction Ordinance.

Measure O

Berkeley voters overwhelmingly approved Measure O on November 2nd. Measure O, endorsed by the Berkeley Rent Stabilization Board and the Berkeley Property Owners Association, provides for a more uniform determination of what the Annual General Adjustment (AGA) will be each year. Before this measure passed, each year the elected Board would commission a study of rental units' costs over the previous year to set the AGA. Measure O provides a much simpler solution – the AGA will now be set at 65% of the increase in the prior year's Consumer Price Index in the San Francisco-Oakland-San Jose area with a cap of 7% and a floor of 0% per year. The AGA will still be announced each year at an October Board meeting and published in the annual notice to landlords and tenants in November of each year. ■

ASK THE RENT BOARD

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 a rent reduction for the impairment the leaky ceiling has caused. Here are steps we recommend tenants take to get problems in their units fixed and to get a rent reduction:

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 does not respond to your request. 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 Code 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 is not repaired. Also, the inspector will issue a report regarding 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.

My elderly mother just moved out of the house she owned and lived in for 25 years and has asked me to help her rent it out. Do I need to register it with the Rent Board?

If there is only one unit on the property, that is, it has no additional unit like an in-law or a cottage, the house is considered a single-family dwelling (even if isn't occupied by a family). Tenancies commencing on or after January 1, 1996 in single-family dwellings, are exempt from rent ceiling restrictions and registration requirements. An exception to this rule is if the house has more than four bedrooms, and you rent each bedroom to an individual tenant under a separate lease, it is considered a rooming house under Rent Board regulations, and each room must be separately registered. But if you rent the house under one rental agreement, reporting to the Rent Board or payment of fees is not required. However, two sections of the Rent Ordinance still apply to single-family homes: interest must be paid annually on security deposits and there must be good cause for eviction.

Workshop Series

The Rent Board is offering a series of workshops on Wednesday evenings for tenants and landlords who are interested in learning about specific topics within Rent Control.

All workshops will be held at Rent Stabilization Board offices in Downtown Berkeley, 2125 Milvia Street.

Security Deposits

March 2, 2005 @ 5:30 pm

How should deductions, refunds, and interest be calculated and when should they be paid?

Registration

March 9, 2005 @ 5:30pm

Landlords and tenants, come learn about which rental units are subject to the Berkeley Rent Ordinance.

Harassment

March 16, 2005 @ 5:30pm

Has this been an issue for you? Join us in discussion of possible resolutions, relevant laws, and appropriate recourses.

Additional Occupants, and Roommate Replacements

March 23, 2005 @ 5:30 pm

Landlords, what happens if your tenants move in additional occupants? Tenants, what happens when your landlord blocks a replacement roommate?

Rent Board staff is also available to do special workshops or presentations.

If you represent a group that would like to request a workshop or presentation, please call (510) 644-6128.



Announcements

2005 AGA

On October 18, 2004, the Berkeley Rent Stabilization Board adopted the Annual General Adjustment (AGA) Order for 2005. Effective January 1, 2005, rent ceilings increased by 0.9% (9/10ths of 1%) for all units except those rental units for which an Initial Rent was established pursuant to the Costa-Hawkins Rental Housing Act on or after January 1, 2004.

Revised Guide

The guide to Berkeley Rent Stabilization Program has been revised! A new version of the free and comprehensive booklet that incorporates changes implemented through 2005 is now available. You may come by the Rent Board office to pick one up, or request one be mailed to you by phoning (510) 644-6128.

Recent Ellis Law Changes

At the urging of the Rent Stabilization Board, the City Council recently made several changes to the Ellis Bill Implementation Ordinance. Qualifying Berkeley tenants that are displaced because of the Ellis Bill will now receive \$7,000 in relocation assistance from the property owner. A tenant qualifies for the relocation assistance if:

- The annual income of the household is less than 80% of the median for Alameda County; or
- One or more of the tenants being displaced are over the age of 60; or
- One or more of the tenants being displaced are disabled.

Accessibility



The Rent Stabilization Board is dedicated to making our services accessible to everyone. All entrances to our offices are wheelchair accessible. If you have any special needs, or requests, please call us to let us know how we can further accommodate you.

- Impacts of Voter Approved Rent Law Changes
- 2005 State Law Changes
- Security Deposit Interest Law
- Update of Market Rents

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

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

CONTACT INFORMATION:
Phone: (510) 644-6128
Fax: (510) 644-7723
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Rent Stabilization Program



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Berkeley, CA 94704

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THE NEWSLETTER OF THE BERKELEY RENT STABILIZATION BOARD



A HARD LOOK AT SOFT STORY BUILDINGS

Thursday, February 24, 2005

7:00-9:00 PM

North Berkeley Senior Center
1901 Hearst Avenue

Corner of MLK, Jr. Way

Contact: Dan Lambert

510-981-7406

Contact us for more information or a presentation to your organization:

Phone: 510-981-7406

Fax: 981-7450

TDD 981-7474

Email: dlambert@ci.berkeley.ca.us

City of Berkeley, Building & Safety

Division

2120 Milvia St, Berkeley, CA 94704

400 Soft Story buildings with 5 or more residential units above tucked-under parking or store fronts have been identified in Berkeley. As this post-Northridge earthquake photo shows, some are subject to collapse. A sidewalk assessment of Berkeley's buildings by professional engineers found that 95% are likely to have to be vacated, at least temporarily, after a major quake on the Hayward fault.



Community Forum on Reducing the Risk from Earthquake Hazards for 5,000 Berkeley Apartments

Mayor Tom Bates invites you to join him at the community forum for:

- Steps you can take today to reduce the risks in your home
- Presentations and answers to your questions from a panel of local and national experts
- More findings of the risk assessment of Berkeley's buildings
- Proposal for city program to address the problem
- Discussion and refreshments with other concerned citizens, city staff, and professional engineers.

Please refrain from wearing scented products to public meetings. To request a sign language interpreter for the meeting, please contact us with at least 5 working days' notice to ensure availability. This location is wheelchair accessible.