



Rent Stabilization Board  
Office of the Executive Director

## MEMORANDUM

**DATE:** February 14, 2017

**TO:** Honorable Berkeley Mayor and City Council Members

**FROM:** John Selawsky, Rent Board Chair  
Jay Kelekian, Rent Board Executive Director

**SUBJECT:** Rent Board's concerns with proposed Short Term Rentals Ordinance

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### BACKGROUND:

The Berkeley Rent Board has long supported Council's efforts to craft reasonable recommendations regarding regulation of short term rentals. Of primary concern to the Board is that Council adopt a policy that prioritizes preservation of ever-decreasing housing stock for rent-controlled tenancies. As you are well aware, escalating rental prices have driven out a number of tenants who can no longer afford to live here if they lose their housing.

Landlords have increasingly utilized short-term rental platforms to rent available units traditionally occupied by long-term, rent-controlled tenants. This reduces available housing for Berkeley residents.

We appreciate the consideration and incorporation of many of our suggestions at your January 24<sup>th</sup> meeting. Continuing our shared goal of maximizing the utilization of our potential housing stock by allowing short-term rentals when it is not taken from units that have historically provided long-term housing, we wish to raise one additional concern with the language adopted at first reading on January 24<sup>th</sup>.

Council's version of the Short-Term Rentals Ordinance adopted on January 24<sup>th</sup> reads:

Short-Term Rentals are allowed in Accessory Buildings and in existing Accessory Dwelling Units ("ADU"s) unless such ADUs are or have been used for long term rentals *by the current owner*, as defined by the requirements of the Rent Stabilization and Good Cause for Eviction Ordinance. Short-Term Rentals shall not be allowed in Accessory Dwelling Units permitted after the date of this ordinance. (Section 23C.22.020.D.; emphasis added)

We understand that the “by the current owner” language was added just before Council voted on this matter at the January 24, 2017 meeting. We are concerned that this addition leaves many units that have traditionally been occupied by long-term tenants vulnerable to being converted to short-term rental use. After all, if you only examine how a unit has been used by the current owner, then any property that contains an ADU may be immediately converted to exclusive use as a short-term rental if it is sold vacant or if the new owner evicts tenants immediately following purchase of the property . . . regardless of how long the property has been used as a long-term rental subject to the requirements of rent control. We don’t believe it was Council’s intent to put these long-term rent controlled units at risk.

**RECOMMENDATION:**

We recommend striking the words “by the current owner” as this leaves the ordinance highly susceptible to being manipulated by speculators and property owners who never intend to use the ADU as a housing source for a Berkeley tenant even if that unit had long been used for such purpose. The Board is not opposed to insertion of some language that provides a reasonable amount of time that the ADU has been used for purposes other than as a controlled rental unit. The Board thinks it reasonable to allow property owners some flexibility to use their ADUs for short-term rentals if the unit is not being removed from the city’s already limited rental housing stock.