



Rent Stabilization Board

INFORMATION CALENDAR
July 23, 2019

To: Honorable Mayor and Members of City Council
From: Jay Kelekian, Executive Director, Rent Stabilization Program
Submitted by: Matthew Siegel, Staff Attorney, Rent Stabilization Program
Subject: Report on B.M.C. 13.79.050 ("Buyout Offers and Agreements")

BACKGROUND

In March 2016 the City Council amended B.M.C. 13.79 ("Tenant Protections: Automatically Renewing Leases and Buyout Agreements") by adding Section 13.79.050 ("Buyout offers and agreements").

Promulgated in response to concerns about tenants not being fully informed about their substantive and procedural rights when entering into negotiations and settlement discussions with property owners and/or their attorneys or agents regarding the surrender of their tenancy, council amended B.M.C. 13.79 to mandate a disclosure requirement from the owner to the tenant; a requirement that all buyout agreements be in writing and be filed with the Berkeley Rent Board and a provision that tenants may rescind a buyout agreement within thirty days of its execution (B.M.C. 13.79.050 et seq.).

In addition, landlords are obligated to retain copies of their buyout agreements for five years and provide a copy of each agreement to the Rent Board. The Ordinance further states the Rent Board is to maintain buyout agreements in a separate file and collect data that includes the amount of compensation paid and the neighborhood of each affected unit (B.M.C. 13.79.050H).

This report synthesizes the data collected since the inception of the passage of B.M.C. 13.79.050 and covers the period from the March 2016 amendment to the ordinance through June 30, 2018. We will provide annual updates moving forward.

SUMMARY AND OVERVIEW

For calendar year 2017, 45 buyouts were reported. For the first half of 2018, 43 buyouts have been recorded, almost the amount for the entire 2017 calendar year.

A review of the data collected shows that most buyouts occur in properties that range from four to nine units and most involve long-term tenants. A vast majority of the buyouts that occurred in duplexes resulted in owner-occupancy of the tenants' unit. Many of the units are now listed as vacant but many others still show the tenant as residing in the unit which is more a result of the owner's failure to update their records with our agency than a rescission of the agreement.

FINDINGS

Since the passage of B.M.C. 13.79.050 in March 2016 through June 30, 2018, the Rent Board has collected one hundred three (103) buyout agreements. It is impossible to ascertain whether additional buyout agreements have been made between landlords and tenants since there may be other agreements entered into that have not been reported to the agency.

Of the 103 agreements collected by the Rent Board, ninety-five (95) have been filed within the statutorily mandated time-frame of no later than sixty days of their execution. Eight agreements were filed late.

The ordinance prescribes that the Rent Board collect the following data from each agreement:

- 1) Amount of compensation.
- 2) Neighborhood of subject property.

In addition to collecting the above data for those units that fall under the jurisdiction of the rent ordinance, the Board also collects data on the length of tenancy and the number of bedrooms in each unit. The following is a breakdown of the above categories.

A. Amount of Compensation

Of the 103 reported agreements, one has been filed without disclosing the amount of compensation. The average amount of compensation is \$24,518 and the median buy-out agreement is for \$20,960.

| Amount | # of Cases |
|---------------------|------------|
| \$3,000 - \$10,000 | 35 |
| \$10,001 - \$20,000 | 14 |
| \$20,001 - \$30,000 | 24 |
| \$30,001 - \$40,000 | 12 |
| \$40,001 - \$50,000 | 9 |
| \$50,000 - \$60,000 | 3 |
| \$60,001 - \$70,000 | 2 |
| \$70,001 - \$80,000 | 2 |
| \$100,000> | 1 |

B. Length of Tenancy

Of the 103 reported cases, the Rent Board has data regarding length of tenancy for 73. Of the 73 reported cases, tenancies range between nine months and thirty-three years.

| Length of Tenancy | # of Cases |
|-------------------|------------|
| Up to 5 years | 22 |
| 5-10 years | 20 |
| 11-15 years | 3 |
| 16-20years | 3 |
| >20 years | 23 |

C. Number of Bedrooms in Unit

Of the 103 reported cases, the Board was able to verify the number of bedrooms for 86 units.

| Bedrooms | # of Units |
|----------|------------|
| 0 | 10 |
| 1 | 31 |
| 2 | 34 |
| 3 | 10 |
| 4 | 1 |

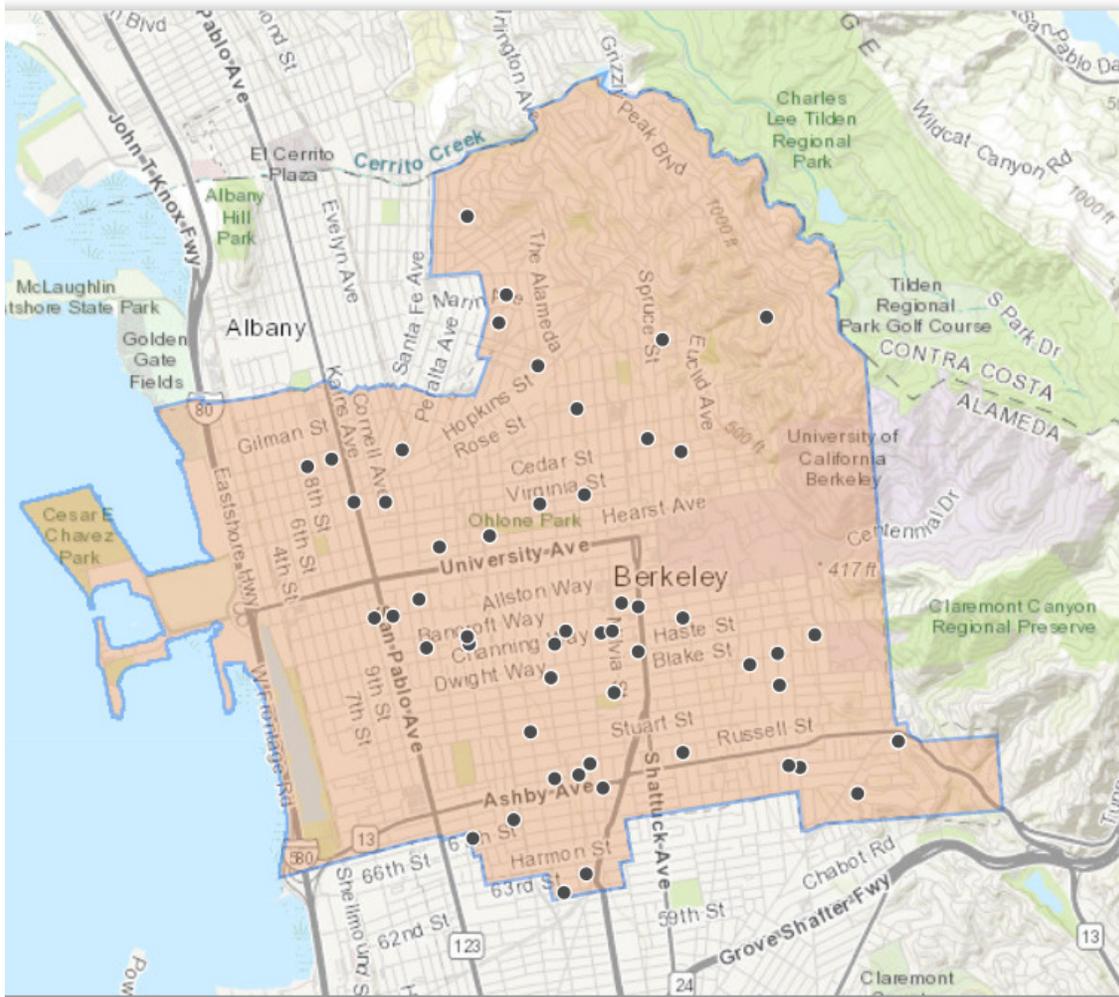
D. Number of Units on Property

The Board has data for seventy-six (76) properties. These properties range from single-family homes to one apartment complex with 105 units. The most common property is a triplex.

| # Units on Prop | # of Prop's |
|-------------------|-------------|
| Single Fam. Homes | 10 |
| Duplexes | 21 |
| Triplexes | 8 |
| 4-9 units | 24 |
| 10-20 units | 10 |
| >21 units | 3 |

E. Neighborhood Data

The mapping below shows where, in the City, these buyouts have occurred.



The 103 recorded buyout agreements represents 81 properties. Thirty-four of the fifty-two are South of University Ave. with twenty properties bordered by University Ave, Ashby Ave., Shattuck Ave. and San Pablo Ave.

As the buyout provisions of the ordinance enter its third year, tenants will continued to receive counseling services from both the Rent Board and contract providers to further understand their rights as they enter into settlement negotiations and possible agreements. Owners will also continue to receive counselling services from the Rent Board so they too will be fully aware of their rights and obligations as it relates to the ordinance. Rent Board staff will continue to monitor such agreements and maintain the public database.

Recommendations

As continuing pressures are put on tenants to vacate, especially those with rents below the prevailing market, the buy-out provisions of the TBO remain a useful tool which provides tenants a level of transparency in buy-out proceedings and a pathway to access legal assistance from the City's/Board's contract providers as well as core housing counseling services from Rent Board staff.

Both the City and Rent Board staff should remain vigilant in their efforts monitoring the TBO. In order to ascertain whether additional protections and safeguards may need to be added either to the language in the TBO or how it is administered, the 4x4 Committee may also want to follow-up and discuss the contents of this report.