

Rent Stabilization Board

May 11, 2020

Premium Properties c/o Sam Sorokin  
6522 Telegraph Ave.  
Oakland, CA 94609

**Re: B.M.C. §13.78/ B.M.C. §.13.110/Administrative Practices**

Dear Mr. Sorokin:

It has come to our attention that Premium Properties is violating current Berkeley law; specifically the newly enacted Tenant Screening and Lease Fee Ordinance and the newly enacted Covid-19 Emergency Response Ordinance.

**I. Tenant Screening Ordinance**

On April 28, 2020, the Berkeley City Council amended B.M.C. §13.78. These amendments expressly prohibit landlords and their managers or agents from charging tenants fees for either replacing a roommate or for terminating their tenancy (B.M.C. §13.78.016; B.M.C. § 13.78.017).

According to leases/rental agreements used by Premium Properties, tenants must pay a \$50 fee in order to vacate and surrender possession of their unit and to be "removed from the lease." Your leases/rental agreements specifically warn tenants that not only must they sign a form created by your office and pay a fee, but also that they remain responsible for all the lease obligations, including payment of rent. In this regard, I direct you to California Code of Civil Procedure §1161 which states as follows;

" A tenant of real property, for a term less than life, or the executor or administrator of his or her estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

1. *When he or she continues in possession*, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him or her...." (emphasis added).

In addition, please review the Form Unlawful Detainer Complaint which specifically calls for a landlord to allege that the **tenant is currently in possession** (Form Unlawful Detainer Complaint, #3). State law is clear that once a tenant surrenders possession of their right to occupy their unit, they may no longer be liable for Unlawful Detainer.

In addition to charging tenants for vacating their units, you also charge tenants a \$95 fee for "roommate replacement." While these fees have been prohibited as a rent overcharge under the rules and regulations of the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance, they are now expressly barred under the newly enacted Tenant Screening and Lease Fee Ordinance. As detailed in B.M.C. §13.78.016;

"It is unlawful for an owner of residential rental property or the owner's agent to charge a non-refundable fee to any existing tenants for the purposes of renewing a tenancy....or to request to add or replace a roommate in a pre-existing household."

These provisions in your leases/rental agreements are contrary to local and state law and as such should be removed from any Berkeley leases/rental agreements.

## **II. COVID-19 EMERGENCY RESPONSE ORDINANCE**

On March 17, 2020, the City enacted B.M.C. §13.110 (COVID-19 Emergency Response Ordinance). This Ordinance and the accompanying Administrative Regulation 10.3, detail the protections tenants have when they are unable to pay full or partial rent as a result of being financially impacted by COVID-19.

It has come to our attention that, in response to tenants notifying Premium Properties that they will not be able to pay partial or full rent as a result of being financially impacted by COVID-19, Premium Properties has developed a policy requiring tenants to provide financial information to demonstrate that they, "including any cosigners or guarantors, can no longer collectively qualify for the apartment" they previously qualified for and in which they currently reside.

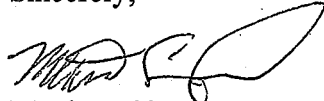
We are writing to inform you that once a tenant has notified Premium Properties of their inability to pay all or some of their rent as a result of a documented material decrease in household or business income or material out-of-pocket medical expenses caused by the impacts of COVID-19 or any local, state, or federal government response to COVID-19, there is nothing in the Ordinance that authorizes a landlord or agent to create their own policies and deadlines which add requirements not articulated in the Ordinance.

The Ordinance is clear that tenants may avail themselves of the protections of the Ordinance as long as their landlord is aware that they are unable to pay all or some of their rent as a result of a documented material decrease in household or business income or material out-of-pocket medical expenses caused by the impacts of COVID-19 or any local, state, or federal government response to COVID-19 (B.M.C. §§13.110.020, 13.110.030). Thus, requiring tenants to provide their "[b]ank and other liquidity statements showing that (they) don't have savings to qualify (for their apartment) despite a reduction or lack of income" in order to access the protections of the Ordinance is impermissible. Similarly, it is outside the scope of the Ordinance and therefore impermissible, to require student tenants to demonstrate that they no longer receive financial aid or students loans, or to require employed tenants to show they were denied unemployment, or to require self-employed tenants to provide their profit/loss statements and proof they did not or

cannot qualify for a Small Business Administration Paycheck Protection Program forgivable loan.

As with the impermissible lease provisions discussed above, we urge you to cease these unlawful practices immediately and adjust your responses to tenants in these regards. The City adopted these very specific policies to provide protections and safeguards to tenants in these uncertain times. Should you have any questions regarding this matter, please feel free to contact me. Currently, I may be reached via email at [msiegel@cityofberkeley.info](mailto:msiegel@cityofberkeley.info) or by phone at (510) 981-4903.

Sincerely,



Matthew Siegel  
Staff Attorney  
Berkeley Rent Stabilization Program

cc: Maria DiBlasi  
tenants @ Premium Properties