



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: May 16, 2011
 TO: Honorable Members of the Rent Stabilization Board
 FROM: Jay Kelekian, Executive Director and
 The Budget and Personnel Committee
 SUBJECT: Recommendation to set the FY 2012 annual registration fee (due July 2011), establish the maximum expenditure level for FY 2011/2012, and authorize the pass-through to certain tenants of a portion of the registration fee

Recommendation

That the Board adopt two resolutions concerning the annual registration fee and FY 2012 Budget:

Proposed Resolution 11-01 – establishes an overall maximum spending level of \$3,950,000 for Fiscal Year 2011/2012 and maintains the registration fee at the current level of \$194 per unit. The Resolution also directs that final budget documents detailing revenues, line-item expenditures and staffing model will be prepared for adoption by the Board in June.

Proposed Resolution 11-02 – authorizes the continuation of Resolutions 09-04 and 10-05 that allows, with proper notice, the pass-through of up to \$4.00 per month to tenants where the tenancy began prior to January 1, 1999. The pass-through may be taken for 12 consecutive months and cannot begin prior to July 1, 2011, and must terminate no later than December 31, 2012, unless extended by future Board action. The increase shall not result in a pass-through of greater than \$4.00 per month to any tenant. The Resolution also directs staff to continue a program/mechanism that allows low-income tenants with a household income of 40% or less of Annual Median Income (AMI) to be reimbursed for the pass-through. Funds for the reimbursement would come from the AEPHI tenant overcharge settlement which, pursuant to Board Regulation 1271(B), must be used for the benefit of low-income tenants.

Background and Need for Rent Stabilization Board Action

Legally, the Board has through the end of June to adopt a line-item budget and expenditure authorization level for FY 2011/2012. However, in order to provide sufficient time to allow staff to print and mail the annual bill prior to the last week of May, the Board traditionally sets the fee no later than a meeting in early May. When the Board adopted the FY 2010/2011 Budget last June, it was anticipated that there would be no need to raise the registration fee this year. I have been monitoring current year expenditures and revenues, as well as beginning the process of analyzing possible changes to next year's budget, and continue to believe that it should not be necessary to increase the registration fee. The Budget and Personnel Committee has reviewed my assumptions and has concurred that it is not necessary to raise fees for the upcoming year.

If the Board wishes to raise the current fee of \$194 per unit, a public hearing must be held upon ten days published notice as set forth in Government Code section 6062a. Therefore, in order to hold a public hearing to consider increasing the registration fee in May, notice of a potential fee increase must first be published. Newspapers require between 3-5 days' lead-time before publishing the public notice. The earliest possible date a notice could be published is May 19 but possibly as late as May 21st. While the Board may hold the public hearing the same evening that it makes a decision on the registration fee, the Board has traditionally held the initial public hearing in advance of the date the fee is adopted. If the Board is considering increasing the fee, I would suggest that we make a decision the same evening as the public hearing so that the mailing of bills is not delayed any further. The earliest date that the Board can be assured that all noticing requirements are met would be some time during the first week of June.

Based upon the most recent budget figures available (please see the information item in your agenda packet), I am projecting that the Rent Stabilization Fund will end this fiscal year with an unallocated balance of at least \$800,000. This amount is notably greater than the Board anticipated when it adopted the FY 2011 budget last June, primarily due to salary savings (for the second consecutive year) caused by several key positions left vacant for much of the year as well as several employees voluntarily foregoing COLAs or taking time off without pay. In addition, I anticipate that our revenue collections will exceed the amount budgeted by roughly \$100,000 this year.

As part of our discussions last year when considering the FY 2011 (current year's) Budget, we assumed a spending level in FY 2012 similar to the \$3,950,000 approved for FY 2011. The actual amount in the projection used by the Board was \$3,850,000 (please see attached) but it was understood that there was flexibility in that number based upon a number of factors, including the increasing need for our services, ability to continue our retooling efforts and our Fund balance. As noted above, for the second year in a row, we have had several vacancies in key staff positions. These vacancies lead to two results: 1.) Salary savings, which increased our reserve balance several hundred thousand dollars above what we anticipated when we adopted the budget last June, and 2.) A list of uncompleted projects which will carry over into the next fiscal year.

We still have many details to work out to determine the best staffing model to get our priority projects completed and we will spend the next six weeks working out those details before presenting a proposal to the Board. The Budget and Personnel Committee and I feel confident that, despite anticipated increased personnel costs, we can commit to a total maximum spending level of \$3,950,000 for FY 2012. This amount is greater than what was anticipated last June, but does not jeopardize the Fund's solvency and allows us to continue meeting the increased demand for our services we have experienced the past few years. We are also hopeful that the amount in the final proposed budget will be less than the \$3,950,000 authorized expenditure cap.

I will work with the Budget Committee to refine the proposed staffing model and return with a detailed line-item budget for FY 2011/2012 as well as a preliminary plan for FY 2012/13. Based upon the projections discussed at the Budget and Personnel Committee (see attached), I anticipate that the Board will end each of the next two years with an uncommitted reserve in excess of \$800,000 and \$650,000 respectively. Based upon my year-end projections for the current fiscal year, as well as the commitment to keep next year's expenditure level at or below \$3,950,000, I proposed that the Budget Personnel Committee recommend to the full Board that the registration fee not be increased for FY 2012; the Committee agreed by a vote of 3-0-0 (Commissioner Blake was substituting for Chair Stephens).

Pass-through of Increase in Registration Fee to Tenants

In 2003, the BPOA proposed changing the way the Annual General Adjustment (AGA) was calculated, shifting from a pass-through of actual cost increases to a flat formula based on a percentage of the CPI. The Board agreed with this formula and, in 2004, the voters approved of this change in how the AGA was calculated. Prior to the change in the AGA methodology, all increases in the registration fee were taken into consideration and incorporated in the Annual General Adjustment of rents.

Since the adoption of statewide vacancy decontrol in the late 1990's, rent levels have been set using two different standards. Under vacancy decontrol, owners are expected to take into account past and anticipated future operating cost increases when setting the initial rent for a new tenancy. Therefore, increases to the registration fee presumably have been factored into the rent charged. Roughly 80% of the units have experienced at least one decontrol since 1999. The Board has been extremely careful to guarantee that owners of the 20% of units never decontrolled continue to receive compensation for actual increased costs, such as adjustments to the registration fee. Since 2004, the Board has found that it would be fair and equitable, in view of the purposes of the Ordinance, to pass along to tenants part of the increase in fees as a temporary adjustment of rent ceilings. In each of the past two years, the Board approved a pass-through of up to \$4.00 per month to tenants where the tenancy began prior to January 1, 1999. The proposed pass-through may be taken for 12 consecutive months and cannot begin prior to July 1, 2011, and must terminate no later than December 31, 2012, unless extended by future Board action. The increase shall not result in a pass-through of greater than \$4.00 per month to any tenant. The pass-through must be on a form provided by the Board or use language provided by the Director and a copy filed with the Program. The Committee and I are recommending that this pass-through be extended for an additional year.

Mitigation of Impact of Pass-through for Low-Income Tenants

Last year, the Board discussed the impact that the pass-through of \$4.00 could have on tenants on a fixed income, especially following the ongoing cuts in several state and federal programs assisting those most vulnerable in our society. Consequently, the Board adopted a resolution directing staff to develop a mechanism that allows low-income tenants with a household income of 40% or less of Area Median Income (AMI) to be reimbursed for the pass-through. Funds for the reimbursement came from the AEPHI settlement. Pursuant to Board Regulation 1271(B), in the event of overcharges from a case in which a tenant has not claimed reimbursement within a year, the Board may designate a program of the City of Berkeley that benefits low- and/or moderate-income tenants. Because the AEPHI settlement was entirely from overcharges to tenants and did not include any registration fee, the Board elected to use this as a source to fund the mitigation of the pass-through.

In 2010, the Board also discussed the appropriate income level to qualify for the reimbursement program. Under Federal guidelines, 30% of AMI is considered "Extremely Low Income" and 50% is considered "Very Low Income". To my knowledge, there is no unique designation for 40% of AMI. The household income by size of household for 30%, 40% and 50% of AMI for Alameda County is listed below. The area median income for a household of four persons in Alameda County is \$90,300.

Income Category	One Person	Two People	Three People	Four People	Five People	Six People	Seven People	Eight People
30% of AMI	\$19,000	\$21,700	\$24,400	\$27,100	\$29,300	\$31,450	\$33,650	\$35,800
40% of AMI	\$25,300	\$28,950	\$32,550	\$36,150	\$39,400	\$41,950	\$44,800	\$47,700
50% of AMI	\$31,600	\$36,150	\$40,650	\$45,150	\$48,800	\$52,400	\$56,000	\$59,600

The past two years, the Board established a standard that allows low-income tenants with a household income of 40% or less of AMI to be reimbursed for the pass-through. We recommend that the mitigation pass-through for low-income tenants be continued at the same 40% of AMI standard.

Name and Telephone Number of Contact Person:

Jay Kelekian, Executive Director (510) 981-4949

Attachments:

Rent Stabilization Board Fund 440 (current)
Rent Stabilization Board FY 2011 Adopted Line Item Budget and ¾-Year Update
Rent Stabilization Board Staffing Model FY 2011 Adopted vs. Revised (as of May 1, 2011)
Rent Stabilization Board Fund 440 (as of June 21, 2010)
Rent Stabilization Board Resolution 11-01
Rent Stabilization Board Resolution 11-02

Rent Stabilization Board Fund -- 440

	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Budgeted	FY 2011 Projected	FY 2012 Status Quo
Beginning Balance	568,618	587,056	457,767	770,549	770,549	800,549
Revenues	3,331,756	3,416,960	3,808,926	3,800,000	3,900,000	3,815,000
Registration Charges	3,207,952	3,244,952	3,679,142	3,670,000	3,700,000	3,680,000
Review, Legal Recovery Fees & Miscellaneous	1,056	22,288	5,965	10,000	20,000	10,000
Fines & Penalties	122,748	149,720	123,819	120,000	180,000	125,000
Expenditures	3,313,318	3,546,249	3,496,144	3,950,000	3,870,000	3,950,000
Personnel	2,556,758	2,722,575	2,732,754	3,100,000	2,840,237	3,100,000
Non-Personnel	756,560	823,674	769,840	850,000	1,029,763	850,000
Displacement Reimbursement Offset *			-6,450			
Annual Surplus/Shortfall	18,438	-129,289	312,782	-150,000	30,000	-135,000
Ending Balance	587,056	457,767	770,549	620,549	800,549	665,549

* NOTE: Displacement Reimbursement Project costs are listed as a negative charge because they are offset by non-registration fee related funding sources and have no impact on the Funds balance. Unused funds will be carried over to the next year.

Rent Stabilization Program
FY 2011 ADOPTED LINE ITEM BUDGET and 3/4-YEAR UPDATE

Code	Description	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Adopted	FY 2011 YTD	FY 2011 Projected	FY 2012 Status Quo
11-01	Monthly Employees	1,619,795	1,723,432	1,727,515	1,976,000	1,230,697	1,800,000	1,976,000
11-03	Hourly Employees	60,950	63,031	55,512	53,000	58,180	65,000	53,000
13-01	Overtime	1,190	420	108	1,000	0	237	1,000
27-20	Benefits	874,825	935,692	949,618	1,060,000	685,695	975,000	1,060,000
30-12	Stipends	50,150	48,940	54,660	54,000	35,600	49,000	54,000
30-23	Misc. Legal Expenses	2,369	2,146	1,044	3,000	2,002	3,000	3,000
30-36	Temp. Agency Employees	3,004	41,927	39,711	10,000	39,061	44,000	10,000
30-38	Misc. Professional Services	294,569	289,231	284,285	320,000	189,635	320,000	320,000
30-42	Office Equip. Mtc. Svcs. / Furniture	4,178	3,850	22,594	15,000	1,908	4,500	15,000
30-43	Bldg. & Structures Mtc. Svc.	1,171	2,655	218	4,000	893	3,000	4,000
40-10	Professional Dues & Fees	1,875	1,975	1,080	2,000	955	1,500	2,000
40-20	Insurance	84	84	0	200	59	100	200
40-31	Telephones	36,151	7,988	5,234	9,000	3,207	5,000	9,000
40-50	Printing & Binding	28,825	37,338	34,112	42,000	27,766	40,000	42,000
40-61	Commercial Travel	0	929	0	1,000	368	500	1,000
40-62	Meals & Lodging	173	0	0	500	0	0	500
40-63	Registration Fees	1,982	3,378	480	4,000	1,750	3,500	4,000
40-64	Transportation	1,490	710	800	1,500	517	1,000	1,500
40-70	Advertising	21,980	27,531	29,069	40,000	26,184	35,000	40,000
40-80	Books & Publications	11,258	11,295	11,199	12,000	7,350	10,000	12,000
50-10	Rental of Land / Buildings	211,306	216,201	218,210	242,000	225,054	230,000	242,000
50-30	Rental of Office Equip. & Furniture	0	0	0	1,000	0	500	1,000
51-10	Postage	37,508	49,714	30,317	46,437	20,087	34,500	46,437
51-20	Messenger / Delivery	1,050	2,698	2,624	3,000	2,679	3,500	3,000
55-11	Office Supplies	14,441	15,104	13,903	18,000	10,826	16,000	18,000
55-50	Food	138	454	1,373	300	478	600	300
70-41	Office Equipment	0	500	265	500	0	0	500
70-44	Computers & Printers (copy machine)	20,264	9,702	0	8,000	0	3,000	8,000
75-25	PC Replacement Contribution		9,387	7,242	7,242	5,436	7,242	7,242
75-30	Central Duplicating	7,624	7,435	3,277	6,000	1,422	1,500	6,000
75-35	Mail Services		3,024	3,240	3,321	2,493	3,321	3,321
75-50	City Vehicle / Fuel & Maint.	4,969	4,478	4,904	4,000	6,259	9,000	4,000
75-90	Training	0	0	0	1,000	0	500	1,000
81-01	Liability Payments	0		0	1,000	0	0	1,000
	Displacement Reimbursement Offset**			(6,450)				
	Expenditure Subtotal	3,313,319	3,521,249	3,496,144	3,950,000	2,586,561	3,670,000	3,950,000
	RTS Database Upgrade Project *	0	25,000		0		200,000	0
	Other Department Transfer	0	0	0	0	0	0	0
	Total Fund Expenditures	3,313,319	3,546,249	3,496,144	3,950,000	2,586,561	3,870,000	3,950,000
	Total Fund Revenue	3,331,755	3,416,960	3,808,926	3,800,000	3,793,786	3,900,000	3,815,000
	Prior Year's Adjustment							
	Annual Surplus/Shortfall	18,436	(129,289)	312,782	(150,000)		30,000	(135,000)
	FUND BALANCE	587,056	457,767	770,549	620,549		800,549	665,549

* NOTE: only outside expenditures tracked separately for RTS Upgrade Project - City/Rent Board staffing costs are included in salary and benefits.

** NOTE: Displacement Reimbursement Project costs are listed as a negative charge because they are offset by non-registraion fee related funding sources and have no impact on the Funds balance.

RENT BOARD POSITION DETAIL

***As of May 1, 2011**

Budget Code 11-01 Monthly Employees

FY 2011 Adopted		FY 2011 Revised*	
Administration Unit			
Executive Director	1.00	Executive Director	1.00
Administrative Staff Assistant	1.00	Administrative Staff Assistant	1.00
Deputy Director	1.00	Deputy Director	1.00
Senior Planner (Temp)	1.00	Senior Planner (Temp)	1.00
Senior Legal Secretary	0.25	Senior Legal Secretary	0.25
Subtotal for FTE	4.25	Subtotal for FTE	4.25
Legal Unit			
Staff Attorney II	1.00	<i>Staff Attorney III</i>	1.00
Staff Attorney II	0.50	<i>Staff Attorney I (6-month Temp.)</i>	1.00
Senior Field Representative	1.00	Senior Field Representative	1.00
Senior Legal Secretary	0.50	Senior Legal Secretary	0.50
Subtotal for FTE	3.00	Subtotal for FTE	3.50
Hearings Unit			
Senior Hearing Examiner	1.00	Senior Hearing Examiner	1.00
Senior Hearing Examiner	1.00	<i>(Position eliminated)</i>	--
Senior Hearing Examiner	0.85	Senior Hearing Examiner	0.85
Community Services Specialist II	0.25	Community Services Specialist II	0.25
Senior Legal Secretary	0.25	Senior Legal Secretary	0.25
Subtotal for FTE	3.35	Subtotal for FTE	2.35
PIU/Registration Unit			
Community Services Specialist III	1.00	Community Services Specialist III	1.00
Staff Attorney II	0.50	<i>Staff Attorney I</i>	1.00
Associate Management Analyst	1.00	<i>Assoc. Management Analyst (Vacant)</i>	1.00
Associate Management Analyst	1.00	Assoc. Management Analyst	1.00
Associate Management Analyst	0.60	Assoc. Management Analyst	0.60
Community Services Specialist II	--	<i>Community Services Specialist II</i>	1.00
Community Services Specialist II	0.75	Community Services Specialist II	0.75
Community Services Specialist I	1.00	Community Services Specialist I	1.00
Office Specialist III	1.00	Office Specialist III	1.00
Office Specialist II	1.00	Office Specialist II	1.00
Office Specialist II	1.00	Office Specialist II	1.00
Subtotal for FTE	7.85	Subtotal for FTE	9.35
Total RSB Staff	18.45	Total RSB Staff	19.45
Employees in Other Departments			
Project-Based Programmer	0.50	<i>Project-Based Programmer</i>	--
Information Systems Specialist	1.00	Information Systems Specialist	1.00
Temporary/Hourly Employees			
Administrative Assistant	0.75	<i>Seasonal Temporary Assistance (Vacant)</i>	0.25
Housing Intern	0.75	Housing Intern	0.75
Grand TOTAL	21.45	Grand TOTAL	21.45

Rent Stabilization Board Fund -- 440

	FY 2008 Actual	FY 2009 Actual	FY 2010 Adopted	FY 2010 Projected	FY 2011 Projected	FY 2012 Projected
Beginning Balance	568,619	587,056	457,767	457,767	597,767	447,767
Revenues	3,331,754	3,416,960	3,835,000	3,780,000	3,800,000	3,820,000
Registration Charges	3,207,952	3,244,952	3,715,000	3,660,000	3,680,000	3,700,000
Legal Fees Recovery	1,054	813	0			
Review Fees	0	21,475	0			
Fines & Penalties	122,748	149,720	120,000	120,000	120,000	120,000
Displacement Reimbursement						
Expenditures	3,313,317	3,546,249	3,995,000	3,640,000	3,950,000	3,850,000
Personnel	2,556,758	2,722,575	3,171,000	2,865,000	3,100,000	3,000,000
Non-Personnel	756,559	823,674	824,000	775,000	850,000	850,000
Annual Surplus/Shortfall	18,437	-129,289	-160,000	140,000	-150,000	-30,000
Ending Balance	587,056	457,767	297,767	597,767	447,767	417,767

Assumptions:

FY 2011 personnel projections based on staffing levels similar to FY 2010 Adopted budget but reallocated positions to realize savings
 FY 2011 non-personnel reflect prior increased expenses totaling \$25,000 in various areas (primarily rent).

FY 2012 personnel projections assume reduction of 1 FTE at a net savings of \$100,000.

FY 2012 non-personnel projections assume no net change in spending level.