



BERKELEY RENTAL NEWS

FALL/WINTER 2010

THE NEWSLETTER OF THE BERKELEY RENT STABILIZATION BOARD

What Is Rent Stabilization? Getting to Know Us

To those who have moved to Berkeley in recent months – and even to many long-time residents – the words “rent control” remain somewhat mysterious and abstract. This is especially the case since very few U.S. cities have local rent ordinances. But California is unique in that many of its cities – including Berkeley, San Francisco, Los Angeles, and Oakland – have passed laws providing rent regulation and eviction protections. Berkeley provides especially strong protections for apartments that fall under its Ordinance.

The Rent Stabilization Ordinance, enacted overwhelmingly by the voters, regulates virtually all residential rental units in Berkeley. Its provisions have two fundamental purposes: 1) to protect tenants from unwarranted rent increases, thus affording some predictability in housing costs; and 2) to protect tenants from evictions without a just cause. With few exceptions, even units not covered by rent controls are guaranteed eviction protections.

The Berkeley Rent Stabilization Program is the city agency that implements and enforces the protections of the Ordinance. The Program is overseen by an elected Board of nine commis-

sioners who ensure that the will of the voters is carried out. Supported by registration fees, the Program 1) provides daily access to trained housing counselors who offer information and guidance to more than 10,000 property owners and tenants annually; 2) tracks the legal ceilings of tenants’ rents; 3) supports outreach efforts in the community to ensure that residents remain aware of Rent Ordinance protections; and 4) offers legally binding recourse to tenants on issues such as habitability, unreturned security deposits, and rent overcharge.

A major focus of the Rent Stabilization Program is to actively inform both landlords and tenants on how the Rent Ordinance affects the rights associated with their homes. Breathing life into a law that directly affects a major segment of Berkeley’s population – more than half of which are tenants – provides a major benefit to the community, as laws maintain little weight if the public remains unaware of their existence. The agency’s outreach efforts are especially significant given the fact that Berkeley sees 5,000 new tenancies per year – driven by its heavy student population.

Did You Know? FDR Set Nationwide Emergency Rent Controls During WWII



In 1942, Franklin Delano Roosevelt instituted a universal system of price controls to rein in the soaring costs of goods and services – including rental housing.

Furthermore, a recent, extensive study of Berkeley’s Rent Stabilization Ordinance and Program clearly indicates that the law remains an effective and essential public policy. Thirty years of experience show that it offers stability to tenants similar to that enjoyed by homeowners while taming the

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Berkeley Rolls Out New Recycling Program For Some Landlords and Tenants

Carts Make It Easier to Go Green

The City of Berkeley proudly announced last month that the city’s Ecology Center would begin delivery of new, rolling recycling carts to single-family homes and small apartment buildings in Berkeley. The new carts are easier to handle, have more capacity, discourage poaching and help keep streets and properties cleaner. The new carts were delivered throughout November and replaced the smaller, blue bins that residents previously used in buildings with nine or fewer units.

A continued increase in materials recycling combined with broad community support for organics recycling is helping the City reach its target of diverting 75% of all refuse away from landfills. The new cart program is the next important step toward this goal.

Single-Family Homes and Duplexes: Most homeowners have received a two-

in-one split cart. Residents use the blue side for bottles, cans and glass. The brown side is used for paper and cardboard.

Small Apartment Complexes: Tenants of small apartment buildings (3 to 9 units) have received two rolling recycling carts – one blue-lid cart for bottles, cans and glass; and one brown-lid cart for paper and cardboard.

The Rent Board encourages owners and tenants to communicate with each other to work out agreements to ensure that the carts are filled properly and taken out and removed from the curb on the appropriate days. Working together, all residents can make sure Berkeley is doing everything possible for the environment.

“Berkeley citizens have a long-standing commitment to recycling, and the Ecology Center has pioneered environmental policies and programs that serve as a model for other communities,” said Martin Bourque, executive director of the Ecology Center. “The new rolling carts make it easier to sort recyclables and get them to the curb. The program meets the city’s high environmental standards at a reasonable cost and creates green jobs. Once again, Berkeley is leading the way as a sustainable community.”

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**Berkeley Rent
Stabilization Board**
www.ci.berkeley.ca.us/rent

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Regular Meeting Schedule

The Rent Stabilization Board will approve the formal 2011 meeting schedule on December 13th. Unless otherwise stated, meetings of the Board are held on the third Monday of each month, except holidays. When a Board meeting falls on a City holiday, it has traditionally been rescheduled to the following Thursday.

Meetings take place at 7:00 pm in the City Council Chambers, 2134 Martin Luther King Jr. Way. For the remainder of 2010, meetings are scheduled for the following date:

Monday, November 29

Monday, December 13

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. Meetings may also be viewed on the Web! Visit the Rent Board’s home page at www.ci.berkeley.ca.us/rent and click on “2010 Meeting Schedule.”



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Rental Unit Musts

According to state and local law all rental units should have:

1. Smoke detectors
2. Operable windows
3. Appropriate door locks
4. A roof with no leaks
5. A functional sewer system
6. Hot and cold running water
7. Easy access to exits
8. A functional heating system
9. A functional electrical system
10. A working phone jack
11. A resident manager (if the building has 16 or more units)

Recycle *Continued from Page 1* Looking to the Future

The Rent Board is committed to working with the City to develop new ways of increasing recycling in multi-unit buildings (10 or more units). Increasing recycling opportunities for tenants in larger buildings is a policy priority for the Board's Safe and Sustainable Housing Committee. The City's Solid Waste Management Division shares the goal of reaching out to owners and tenants in larger buildings and working to expand the number of buildings that afford tenants the option to recycle. The Rent Stabilization Program staff and the Solid Waste Management Division are happy to work with owners and tenants to make arrangements for improving recycling systems at multi-unit properties. Owners or property managers in larger buildings (10+ units) who are interested in finding out how to begin the process of adding recycling opportunities at their property can contact the City of Berkeley Customer Service Department at (510) 981-7270 and request a phone consultation and/or site assessment.

For more information on residential recycling:

Owners of buildings with 1-9 units: Visit the Ecology Center's home page at www.ecologycenter.org/recycling/

Owners of buildings with 10+ units: Visit the City of Berkeley's Public Works home page at www.cityofberkeley.info/pw/ and click on "Residential Recycling Services."

Tenants:

For information on improving residential recycling in your building, please contact Fatema Crane at (510) 981-RENT.

Keeping Berkeley Habitable

An Owner-Tenant Guide to Repair and Maintenance

As the rainy season arrives, the leaking roof or faulty heater that seemed like a minor annoyance in the summer becomes a glaring problem. It is in the interest of the tenant and property owner to make maintenance fixes, both to ensure tenant comfort and safety and to protect the building. For the past several years, preserving, maintaining and improving the quality and safety of Berkeley's housing stock has been a priority for the City. This is not an easy task, as many homes and apartment buildings in Berkeley are aging (some are more than a hundred years old) and require constant care and maintenance.

The City, with the support of the Rent Board, has implemented a series of initiatives to improve the safety of Berkeley housing stock. Since the early 1990s, a major focus for the City's elected and appointed officials has been reducing the risk of death, injury and/or damage in a large earthquake. The City's combined efforts to 1) retrofit most public buildings, 2) urge owners of soft-story buildings to make necessary retrofits, and 3) encourage single-family homeowners to improve seismic safety through the use of a City transfer tax have vaulted Berkeley far ahead of most cities in seismic safety. In addition, Berkeley is proud of efforts to enforce and strengthen City housing codes for rental units. Since 2001, the City's Rental Housing Safety Program has required virtually all owners of rental housing to annually inspect and certify that rental units meet prescribed safety requirements.

Over the summer, the Board supported several changes to the Rental Housing Safety Program adopted by the City Council. These changes included 1) adding penalties if it is discovered that a property owner does not conduct the annual safety inspection required by the program; 2) eliminating the program requiring property owners to inspect gas heating appliances every five years, especially in light of the fact that carbon monoxide detectors will be required in multi-unit dwellings by July 1, 2013, and 3) increasing the amount of fees charged for re-inspection.

Generally, it is in both the tenant's and the owner's interest to address repair issues as soon as they arise. Tenants clearly benefit because the sooner a repair is made, the sooner s/he has full use of a safe and livable unit. Owners also benefit because the rental unit is a substantial investment and the sooner a repair is made, the less damage to the building and potential cost for making the repair. In addition, quick repairs reduce the owner's potential liability to the tenant for damage or impairment.

We have found that, in most cases, tenants and owners are able to resolve issues of repair and maintenance without complications. The section below provides some tips for both owners and tenants about how to avoid habitability problems, and when they do arise, how to get the repairs made quickly. If a problem arises, you should not ignore it – instead, we recommend that you communicate directly and politely with the person responsible. In most cases, using the techniques suggested below will resolve the problem.

Initial Steps for Avoiding or Resolving Repair Problems

Tenants:

1. Inspect the unit at the beginning of the tenancy and note problems to the owner in writing.
2. Keep the rental unit clean and sanitary.
3. Expect your unit to be inspected by the owner for compliance with the Rental Housing Safety Program by July 1st every

year. Review the certification; contact your building's owner and the City of Berkeley if it is inaccurate.

4. Request repairs immediately when a problem arises.
5. Send the owner a written follow-up to document your request. Keep copies of all correspondence.
6. Allow the owner access to enter the unit during normal business hours to perform repairs.
7. Avoid making any alterations to the unit or any structure on the rented property without written permission from the owner.

Owners:

1. When contacted by the tenant, arrange for repairs right away.
2. Give tenants 24 hours' written notice before entering a unit to make repairs.
3. Complete Rental Housing Safety Program certification each year in a timely manner. Give a copy to the tenant by July 1st. You may wish to send it with a Certificate of Mailing for proof that the inspection was performed timely.
4. Comply with the City Noise Ordinance when making repairs. Permissible hours for construction noise are 7am-7pm. Respect the tenant's right to quiet enjoyment.
5. Always obtain necessary permits when making repairs.

Possible Steps if You Are Unable to Resolve a Repair Issue

If the other party is not responsive or the problem persists, you may need to take more formal action to get the situation resolved. We have included some options if you find that you are unable to resolve a repair issue with the owner or tenant.

Tenants:

1. Request a housing inspection with Housing Code Enforcement (510-981-5444). Show the inspector all the problems in the unit, and ask him/her to make note of each problem in their report even if it is not considered a code violation.
2. File a Rent Board petition for a rent reduction if the owner has failed to provide adequate housing services, comply with housing codes or the warranty of habitability, or if substantial deterioration of the unit has occurred.
3. Request mediation at the Rent Board to resolve the matter.
4. File a claim in Small Claims Court if the matter can't be resolved with the owner.
5. Repair and deduct in accordance with California Civil Code 1942. (We recommend that tenants consult a Rent Board housing counselor before taking this action, so that they understand both the procedure and the risk it entails.)

Owners:

1. Request that the City do Rental Housing Safety Program certification if tenant will not allow entry in order for the inspection to be performed.
2. Use the City Relocation Program as a resource to determine your obligations when extensive repair work is necessary and may require the tenant to move out.
3. If the tenant has made the repair necessary by causing damage to the unit, make a written request for payment for the reasonable cost of repairing the damage. While deduction from the security deposit is permitted for damage, consider filing a claim in Small Claims Court for earlier restitution. Causing damage to the rental property and refusing to pay for the repairs could constitute a good cause for eviction.

Note: Section 8 housing guidelines may differ. Contact the Berkeley Housing Authority for more information at (510) 981-5470.

Ask The Rent Board

Dear Berkeley Rent Board:

I have informed my tenant that I want to do some renovations that would ultimately make the tenant's apartment a more pleasant unit to live in. Unfortunately, the renovations would take a couple weeks, during which the tenant would have to live with workers coming in and out, floors being torn up, counters being replaced, etc.

The tenant initially told me she was excited about the idea of the renovations, but then expressed reservations about the workers being in the apartment, so I'm getting nervous about whether or not she will allow entry. Then she demanded a rent reduction for the construction period. I think that is fair, but the amount she's asking for is unreasonable. Our communications are becoming tense. What can I do to get this project back on track?

Because it sounds like you and the tenant agree on the basics (i.e., the need for renovations and a rent reduction for the time it takes), but are having trouble dealing with each other directly, I would suggest that you consider third-party mediation to work out an agreement. Mediation would give the two of you a chance to work out 1) ground rules and schedules for the workers to carry out the renovations, and 2) the basis for rent reduction. An agreement on the latter issue would be especially helpful, since if the two of you can't work something out, then the tenant's recourse would be to seek a legally binding decision through the Rent Board's petition process.

Fortunately, the Rent Board offers free mediation services. Mediation is voluntary – it will occur only if

both of you agree to participate. So if your tenant is willing to take part, then Rent Board mediators will seek to help both of you communicate effectively and focus on the desired outcomes of each person.

Mediation is beneficial because of its emphasis on cooperative problem-solving and is especially helpful in an ongoing landlord-tenant relationship. The spirit of cooperation usually means more positive dealings between the parties in the future. In your case, both parties would ultimately benefit because the apartment's improvement gives the tenant a more

pleasant home and increases your property value – as well as avoiding a rent reduction petition from the tenant.

Last year, the Rent Board assisted in more than 70 mediations, and we are proud that most of these resulted in a signed agreement between the parties. For properties falling under the Rent Ordinance, mediation is free, so give it a try.

You may begin the process by completing a "Request for Mediation" form (available on our Web site), which asks for the parties' general

information and a brief description of the dispute. A mediation session can be scheduled as soon as a week from the request, provided the other party agrees.

If an agreement is reached in the mediation, it will be written up for the parties to sign. Mediated agreements have a high rate of compliance because the parties have worked out their own solution. But if a party reneges on the agreement, the other party is free to seek Rent Board remedies, if appropriate, or to enforce that agreement in court.

Last year, the Rent Board assisted in more than 70 mediations, and we are proud that most of these resulted in a signed agreement.



Did You Know? Richard Nixon Instituted Temporary Nationwide Rent Controls

In 1971, Nixon attempted to halt the nation's steep inflation rate by establishing a 90-day wage and price freeze.

Getting to Know Rent Stabilization *Continued from Page 1*

potential for unnecessary rent increases and guaranteeing property owners a fair return on their investment. (For a detailed description of the study, see the Spring 2010 edition of *Berkeley Rental News*, which is available on our Web site.)

According to the study, stabilized rent increases ensure that tenants who have lived in their units since before 1999 receive total savings of approximately \$25 million a year. Nearly two-thirds of these long-term tenant households are low-income, and nearly 40% of the pre-1999 households have a person with a disability or a person over age 65. Meanwhile, tenants who moved in after 1999 receive a total savings of about \$10 million a year. Regardless of their move-in date, all tenants are insulated from spikes in the rental market and unfair eviction, allowing them to plan their lives and futures in a manner similar to that of home-owning neighbors and classmates. In addition, the study documents that Berkeley property values have experienced a sharp increase since 1999 – well beyond the rate of return enjoyed by the rest of the U.S. – and most property owners have benefited from that increase.

What Protections Does the Rent Ordinance Provide?

The Rent Ordinance itself can be broken down into four basic components:

■ Stable Rent

Rent increases during a tenancy are regulated in Berkeley. Since Jan. 1, 1999, state law has allowed landlords to establish a new, market-based rent for a new tenant (vacancy decontrol). The rent that is negotiated at the beginning of the tenancy becomes the tenant's "base rent." (If the original agreement includes "discounts" or periods of free rent, the base rent is the average of the first 12 months of the tenancy.) Each January after the one-year anniversary date of the tenancy's start date, the landlord may increase the tenant's rent only by the percentage approved by the Berkeley Rent Board. This increase, known as the Annual General Adjustment (see Page 4), is based on cost-of-living increases in the Bay Area. Additional rent increases may not be imposed unless the landlord files a petition for individual rent adjustment and the Board determines that an additional rent increase is warranted.

■ Eviction Protections

Berkeley's Rent Ordinance provides protection against eviction without "good

cause." A Berkeley landlord must cite one of the "good causes for eviction" listed in the Ordinance in order to evict a tenant. Eviction restrictions are designed to prevent arbitrary, discriminatory or retaliatory evictions. Some examples of situations that are NOT good causes for eviction: Foreclosure, expiration of a lease, and sale of the property do NOT constitute "good causes" for eviction.

■ Security Deposit Interest

Berkeley's Rent Ordinance requires landlords to pay interest on tenants' security deposits each December. They must also pay interest on the deposit whenever a tenant vacates a unit (see Page 4).

■ Stable Services, Habitable Conditions

While state and Berkeley law require landlords to maintain their rental units in a habitable condition, Berkeley's ordinance also requires landlords to continue to provide all base-year services for the entire tenancy. If a landlord discontinues a base-year service, the tenants may be entitled to a corresponding rent ceiling reduction.

Does the Ordinance Apply to Your Rental?

- ✓ Roughly 19,000 units are covered by all provisions of the Ordinance.
- ✓ Units constructed after June 30, 1980, Section 8 units and most single-family homes (including condominiums) are partially covered by the Ordinance. Owners of partially exempt units must pay interest on security deposits and have good cause to evict, but are not required to pay a registration fee, and their rents are not controlled by the Rent Board.
- ✓ Fewer than 500 of the roughly 27,000 units in Berkeley are completely exempt from the Ordinance. These include units in which the owner shares kitchen or bath facilities with the tenant; and a rental unit on a "golden duplex," or a 2-unit property where a 50% owner of record occupied one unit on Dec. 31, 1979, and a 50% owner of record currently occupies a unit.

Please note: There are additional circumstances under which a unit might be partially or fully exempt from the Berkeley Rent Ordinance. If you have any questions on whether a unit you inhabit or rent out should be registered with the Rent Board, please give us a call at (510) 981-RENT.

DIRECTOR'S MESSAGE



Jay Kelekian, Executive Director

2010 Election: Comings and Goings

On November 2, Berkeley voters were asked to weigh in on the composition of the Berkeley Rent Board. The results are as follows:

Due to term limits, longstanding Rent Board Commissioner Howard Chong will step down after his current term expires. A determined and dedicated public servant, Howard has served on the Berkeley Rent Board since 2002. We sincerely wish him much success and happiness in all his endeavors.

Meanwhile, the following five Rent Board Commissioners were re-elected to four-year terms: Dave Blake, Katherine Harr, Lisa Stephens, Jesse Townley, and Pamela Webster. The Board welcomes Asa Dodsworth, whom voters picked to serve for the remaining two years of former Commissioner Jack Harrison's term. (Jack, who died last year, was remembered in the Berkeley Rental News' Spring 2010 issue.)

The year is drawing to a close, and in the spirit of the season I can't help but look back on this city's storied past. Berkeley has earned its unique spot in history. Noted for its activism-infused heritage, the results of many years of crusading have placed the city at the forefront of precedent-setting public policy initiatives. To name a few, Berkeley was the first city to voluntarily integrate its schools. It is the site of the nation's first regional park (Tilden). It was the first city to observe Indigenous Peoples Day. Progressive legislation on matters such as the rights of the disabled, fair housing, and rent control policy remain priorities in this unconventional and visionary city.

Berkeley's rich history is not limited to the actions of its citizens – its housing is historic as well. In fact, more than 50% of Berkeley's housing stock was built before 1940. In its 2009 American Community Survey, the Bureau of Labor Statistics found that 55% of the homes in this town were built in or before 1939. Compare that to San Diego, the state's oldest city, which can claim only 7.2% of pre-World War II housing.

The effort that the City of Berkeley and its property owners have put into its housing stock to maintain and preserve these historic buildings is one of the many reasons that I am proud of Berkeley, and one of the reasons its residents should be proud, too. Fighting the effects of aging architecture is a never-ending task, and building owners must take significant steps to both meet basic habitability requirements, as well as make larger capital improvements – such as seismic retrofitting – that are necessary to keep and/or improve the property's value. The Rent Stabilization Program plays a strong role in encouraging tenants and owners to maintain rental property through its system of associating habitability standards with a unit's rent ceiling, and allow-

ing tenants to pay reduced rent when an apartment's habitability is deemed deficient. This of course is but one of the many protections offered by the Ordinance. For more information on how the Rent Ordinance affects your rights and responsibilities, I direct you to our article on Page 1.

One more word on maintaining buildings: Tenants and owners can work together to ensure that rental housing, whether built in the 1920s or 1970s, remains a source of pride for this city. To better inform owners and tenants of their roles in this effort, we offer our guide to habitability on Page 2.

Berkeley continues to look forward, too, especially in its ongoing commitment to environmental policy. Having made headlines for its various clean-air, anti-styrofoam, and renewable-energy initiatives, the City is now making strides to improve recycling efforts in multi-unit buildings. New rolling bins will make recycling easier for homeowners and tenants in buildings with less than nine residential units, and we continue our efforts to make recycling more efficient in larger buildings as well. More can be found on Page 1.

Other things afoot that you might be interested in: It's that time of year when rents go can be increased on rent-stabilized units, and interest on security deposits must be returned. It's always a good idea to make sure the rent is paid appropriately, the interest is returned accordingly, and so on. Detailed information has been mailed to property owners, and also can be found on our Web site.

As always, give us a call or write to us if you have inquiries or constructive comments.

2011 AGA Will Be 0.7%

The new year will be here before you know it, along with the opportunity for landlords to take the annual rent increase known as the Annual General Adjustment, or AGA. Eligible landlords may increase the 2010 permanent rent ceilings by 0.7% (seven-tenths of one percent) for 2011. The new AGA will take effect on January 1, 2011, and applies to all units covered by the Rent Ordinance except those for which an initial rent was established pursuant to the Costa-Hawkins Rental Housing Act on or after January 1, 2010. Detailed instructions have been mailed to owners and are also available on our Web site.

Something to Pique Your Interest

Annual Rate for 2010 is 0.4%

It's that time of year again. On November 1, the Berkeley Rent Board published its annual interest rate due on tenants' security deposits. By the end of the year, owners must pay interest at the rate of 0.4% (four-tenths of one percent). The interest is calculated on the period between November 1, 2009 and October 31, 2010. If the owner does not pay the interest to the tenant by Jan. 10, 2011, then the tenant has the right to withhold interest from his/her rent at a rate of 10%, provided the tenant gives the landlord 15 days' written notice (Berkeley Rent Board Regulation 704).

Owners must also pay interest on tenants' security deposits when they move out. The interest is calculated on the deposit for the months between the previous November 1 and the move-out date. Need help figuring out how much is owed? Give us a call, or visit our Web site at www.ci.berkeley.ca.us/rent/ and click on "Security Deposit Interest Rate." We publish the "move-out" rate each month on our site and provide a calculator for your convenience.

¡Hablamos Español! Inquilinos y Propietarios Obtenga este Boletín en Español

La Mesa de Estabilización de Rentas de Berkeley ahora ofrece la traducción de este boletín en español. Si desea obtener una copia – o si usted tiene preguntas sobre la renta en Berkeley – por favor llame a:

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