

RESOLUTION 20-14

WAIVING FISCAL YEAR 2020/2021 REGISTRATION FEE PENALTIES FOR LANDLORDS WHO WERE FINANCIALLY IMPACTED BY COVID-19 OR THE RESULTANT SHELTER-IN-PLACE ORDERS

BE IT RESOLVED by the Rent Stabilization Board of the City of Berkeley (the "Board") as follows:

WHEREAS, on April 30, 2020 the Board adopted the 2020/2021 Registration Fee of \$250 for all units that are required to be registered; and

WHEREAS, it is hard-coded in the Rent Ordinance (Berkeley Municipal Code (BMC) Section 13.76.080F.) that the annual Registration Fee is due on July 1st of each calendar year, and there is a 100% penalty for failure to timely pay; and

WHEREAS, Board staff took extraordinary efforts, above and beyond that extended in normal years, to ensure that landlords were given ample notice to pay the annual fee on time, including sending the bill out earlier than normal, contacting landlords over the phone, and providing a written reminder of the due date on June 24, 2020; and

WHEREAS, BMC Section 13.76.080F. gives the elected Commissioners authority to waive penalties associated with late payment of annual Registration Fees when landlords can show good cause for failure to timely pay; and

WHEREAS, in 1983 the Board adopted Rent Board Regulation 883 which grants Board staff the authority to administratively waive penalties based on a schedule that takes into account how many times the landlord has paid late over the previous six years if landlords pay the Registration Fee by August 31 of each year; and

WHEREAS, all landlords are still entitled to file a waiver application to the elected Board to have the Commissioners review and determine whether there was good cause for late payment of the Registration Fee; and

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WHEREAS, the Board generally waives a majority of the Registration Fee penalties when reviewing discretionary waivers and has most often taken the position that encouraging compliance is more important than punitive interpretation of the law; and

WHEREAS, the global pandemic and resulting widescale economic shutdown caused by the spread of the novel coronavirus COVID-19 has caused a number of unexpected vacancies in rental property; and

WHEREAS, Landlords have expressed that they are experiencing economic difficulties due to the vacancies, and it is safe to assume that landlords have similarly experienced other economic hardships associated with the pandemic and resultant shelter-in-place orders; and

WHEREAS, Berkeley's City Council granted tenants relief through the COVID-19 Emergency Response Ordinance (BMC Section 13.110) which protects tenants from eviction for nonpayment of rent if the tenant has been financially impacted by the shelter-in-place orders, had to care for dependents, or became ill due to COVID-19 during the local State of Emergency; and

WHEREAS, a complete waiver of Fiscal Year 2020/2021 Registration Fee penalties shall be granted if landlords pay the fee by September 30, 2020, and if they declare that under penalty of perjury that they have been financially impacted by the COVID-19 pandemic or any resultant shelter-in-place orders that may have impacted their business or household income; and

WHEREAS, the Board will extend the waiver period established in Regulation 883 from August 31, 2020, to September 30, 2020, so that the deadline to pay Registration Fees and have penalties administratively waived is the same for both the COVID-19 exception established this year and the long-standing administrative waiver procedures outlined in Regulation 883.

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NOW, THEREFORE, BE IT RESOLVED, the Board hereby establishes that Board staff may waive all penalties associated with late payment of the Fiscal Year 2020/2021 Registration Fee under the following conditions:

1. Landlords must declare under penalty of perjury that the reason they did not pay the Fiscal Year 2020/2021 Registration Fee by July 1, 2020, arose from any of the following financial impacts caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, including:
 - A material decrease in household income caused by layoffs or a reduction in the number of compensable hours of work; or
 - A material decrease in household income caused by caregiving responsibilities; or
 - A material decrease in business income caused by a reduction in opening hours or consumer demand; or
 - Material out-of-pocket medical expenses.
2. Staff shall be granted the authority to waive the penalties upon receipt of the landlord's declaration under penalty of perjury of COVID-19 financial impact (the elected Board will not have to review these claims); and
3. Landlords must pay the Fiscal Year 2020/2021 Registration Fee by September 30, 2020, in order to avail themselves of the complete waiver established by this Resolution; and

BE IT FURTHER RESOLVED, Landlords shall continue to have the option to have their Registration Fee penalties administratively waived pursuant to Rent Board Regulation 883 which establishes a schedule that takes into account how many times the landlord has paid late over the previous six years and has nothing to do with waiving penalties pursuant to a COVID-19 claim of financial impact; and

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BE IT FURTHER RESOLVED, that the Board hereby extends the timeframe for administrative waiver of Registration Fee penalties articulated in Rent Board Regulation 883 to September 30, 2020 (allowing for a 90-day waiver period rather than the 60-day waiver period established in the regulation).

BE IT FURTHER RESOLVED, that, other than extending the timeframe for waiver of penalties for the Fiscal Year 2020/2021 Registration Fee, Rent Board Regulation 883 shall operate as adopted.

Dated: July 16, 2020

Adopted by the Rent Stabilization Board of the City of Berkeley by the following vote:

YES:

NO:

ABSTAIN:

ABSENT:

Paola Laverde, Chairperson
Rent Stabilization Board

Attest: _____
Matt Brown, Acting Executive Director