

Berkeley Rental News

FALL 2006

THE NEWSLETTER OF THE BERKELEY RENT STABILIZATION BOARD



BERKELEY RENT STABILIZATION BOARD

www.ci.berkeley.ca.us/rent/

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Regular Rent Board Meeting Schedule

Starting this year, meetings of the Rent Stabilization Board are now held on the third Monday of each month, except holidays. When a Board meeting falls on a holiday, it has traditionally been rescheduled to the following Thursday. Meetings take place at 7:00 p.m. in the City Council Chambers, 2134 Martin Luther King Jr. Way. For the remainder of 2006, meetings are scheduled for the following dates:

Monday, Oct. 16

Monday, Nov 20

Monday, Dec. 18



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 now also be viewed on the Web! Visit the Rent Board's home page at www.ci.berkeley.ca.us/rent/ and click on "2006 Regular Meeting Schedule."

Message from the Director



As the fall arrives, the children decked out in their Halloween costumes, and thousands of tenants settling into their new rental units. And in November, Berkeley voters will be asked to weigh in on some truly significant proposals at the ballot box. Two important measures that may affect property owners and tenants are coming up for a vote in November, and we here at the Rent Stabilization Program want to make sure members of our community are aware and informed.

Toward this end, below, we have provided an overview of both Measure I, which would replace the existing Condominium Conversion Ordinance in Berkeley; and Measure E, a proposed Charter Amendment, which would change the way Rent Board members are elected when a vacancy occurs.

City staff and publications such as this newsletter are not permitted to make recommendations about measures. Below, we have reprinted material that will be contained in the Registrar of Voters Election Guide, including the ballot title, the text of the City Attorney's analysis, and a list of those submitting arguments supporting and opposing the measures. Space prohibits us from reprinting the arguments – and the rebuttals to those arguments – in full, but they may be viewed at the City Clerk's Web site (www.ci.berkeley.ca.us/elections/measures/2006/bmindex.htm).

If you have not already registered to vote in the November 7 election, remember that the last day to register is October 23. I hope that you find the election overview as well as the other information in this newsletter informative and useful. As always, I welcome any questions or constructive comments you may have.

Proposed Measures for November Ballot

MEASURE I – Amending the Condo Conversion Ordinance

Title: Shall an ordinance be adopted to: 1) increase annual condominium conversions from 100 to 500 units; 2) increase the ability to evict tenants of converted units; 3) significantly reduce per unit the affordable housing fee; 4) entitle tenants to purchase their unit at a 5% discount; and 5) eliminate certain existing restrictions on conversion?

City Attorney's Analysis: The initiative would replace Berkeley's existing condominium conversion ordinance, which is designed to preserve rental housing or mitigate its loss from conversion, with a measure that would facilitate condominium conversions.

The proposed measure would:

1. Increase the annual number of units that can be converted to condominiums from 100 to 500. (500 units represent about 2% of the City's rental housing stock.) The Council is permitted to reduce the number of allowable conversions to no less than 100 units if an impartial survey by the City's Housing Department establishes that the vacancy rate is under 3%;
2. Eliminate the current right of existing tenants to remain in their units after conversion if they do not or cannot purchase them, thereby permitting the owner of a converted building to evict the tenants under the State Ellis Act or purchasers of converted units to evict tenants in order to occupy the unit for themselves or designated relatives under Berkeley's "just cause ordinance";
3. Eliminate the current rule that a property may not be converted to con-

dominiums if: the owner has gone out of the rental business and evicted the tenants under the State Ellis Act within the preceding 20 years; tenants have been evicted for owner-occupancy within the previous 10 years; or the owner has opted out of the Section 8 rental assistance program within the previous 5 years;

4. Reduce by 90% the per unit affordable housing fee for most units, which is used to mitigate the effect on conversions, and make it payable on conversion rather than sale of the condominium;

5. Reduce the time for pre-existing tenants to exercise their right of first refusal to purchase their unit under the Berkeley Municipal Code from one year to thirty days, but provide for a 5% discount in the purchase price;

7. Provide for tenants to accept a cash payment of 2% of the sales price instead of relocation benefits under other City ordinances, to be shared if there are multiple tenants. Currently, relocation payments are only due where the landlord goes out of the rental business. The cash payment under the proposed measure will generally exceed the amount currently payable under the City's Ellis Act implementation ordinance;

Financial Implications: The per-unit affordable housing fee would decrease substantially. The impact on the total amount of revenues from the affordable housing fee will depend on the number of units converted. Revenues from the real property transfer tax and property tax are likely to increase substantially. Staffing costs will rise to process the additional conversions. These costs

may be offset by the Council's imposition of processing fees.

The following have signed arguments supporting Measure I:

Eleanor Pepples, Dean Metzger, Jim Smith, Former Berkeley Mayor Shirley Dean, Doris Maslach, Elizabeth P. Merrill, Orna Shaughnessy, Afam Agbodike, and Blake von Knopka.

The following have signed arguments opposing Measure I:

Assemblymember Loni Hancock, Rent Stabilization Board Chair Howard Chong, Berkeley Mayor Tom Bates, Father George Crespini, City Council Member Laurie Capitelli, Arlene Key, Linda Lazzareschi, and City Council Member Linda Maio.

For the complete text of the proposed ballot measure, as well as arguments for and against Measure I and rebuttals to those arguments, please visit the City Clerk's Web site at: www.ci.berkeley.ca.us/elections/measures/2006/bmindex.htm and click on "Measure I."

MEASURE E – Rent Stabilization Board Vacancy

Title: Shall the Charter of the City of Berkeley be amended to provide that vacancies in the office of Rent Stabilization Board Commissioner shall be filled at a general municipal election and that in the interim the position shall be filled by the Rent Stabilization Board by appointment?

City Attorney Analysis: The proposed charter amendment would require that all vacancies in the office of Rent Stabilization Board Commissioner must

Guide for First-time Renters in Berkeley

Over the years, our staff has performed numerous presentations throughout the City to community groups, students, and concerned residents about how to enjoy their Berkeley rental to the fullest. Often the presentations have turned into discussions with property owners, agents, and prospective tenants alike about practical concerns and how best to approach them. For this reason, we offer this guide to new tenants – and we hope that it proves useful to existing tenants, as well. So, whether you've just moved to Berkeley, or you've been around as long as we have (25 years and counting), we hope you will find this guide informative.

What Rights Does the Berkeley Rent Ordinance Offer YOU?

Berkeley's Rent Stabilization Ordinance, enacted 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. The fact that Berkeley offers these protections makes it fairly unique among California cities. The state civil code provides guidelines governing the rental of residential property, but it offers no true protections for tenants regarding rent levels or eviction. In Berkeley, however, with few exceptions, even units not covered by rent controls are generally guaranteed eviction protections. For most apartments, flats, and rooms rented in Berkeley, tenants are entitled to four stabilizing rights:

Stable Rent

Rent increases during a tenancy are still controlled in Berkeley, even though, since Jan. 1, 1999, landlords have been able to establish new rents for new tenants (vacancy decontrol). The rent that is negotiated at the beginning of the tenancy is the "base rent." (If your original agreement includes "discounts" or periods of free rent, call us for assistance in calculating your base rent.) Each January, after the one-year anniversary date of the tenancy's inception, the landlord may impose a "cost-of-living" increase (Annual General Adjustment set by the Rent Board). 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.

Safe, habitable housing and stable services

In order to ensure that rents are in effect kept stable, it's necessary to secure stable conditions as well. State and local laws require landlords to maintain habitable conditions and to continue providing all base-year services (such as payment of the garbage and/or water bill; access to laundry; or access to storage) for the entire tenancy. For tenancies that began before Jan. 1, 1999, a base-year service is any service that was included in the rent on May 31, 1980. If the landlord discontinues a base-year service, or any service that was provided at the beginning of the tenancy,

tenants may be entitled to a rent reduction. Furthermore, a landlord must maintain a basic level of habitability in the unit. If any habitability problems arise (see box below), tenants may be entitled to a rent reduction.

Eviction Protection

A Berkeley landlord must have "good cause" to evict a tenant. Nonpayment of rent and material violation of the lease are two examples of good cause. (See our Web site or give us a call for all twelve good causes for eviction.) Eviction restrictions were designed to help prevent arbitrary, discriminatory, or retaliatory evictions. A landlord cannot evict a tenant because the tenant's lease has expired or because the landlord plans to sell the building – these are not "good causes" for eviction. Remember that all unlawful detainers (eviction lawsuits) are filed in superior court. The Rent Board has no jurisdiction to decide these issues. Nevertheless, if you have questions regarding your rights as a landlord or tenant, please give us a call and speak with a housing counselor.

Interest on Deposit

Berkeley's Rent Ordinance also requires landlords to pay interest on any security deposits (amount in excess of the first month's rent collected at the beginning of the tenancy) that they collect from their tenants in nearly all of Berkeley's rental units. The percent of interest is calculated at the 12-month average of the interest rates earned by 6-month CDs earned for the period. This rate is updated monthly and published on the Berkeley Rent Board Web site (www.ci.berkeley.ca.us/rent). Landlords are required to pay this interest to tenants every December. If the interest is not paid by January 10 of the following year, tenants may, after providing the landlord with 15 days' prior written notice, deduct interest at the rate of 10% of the deposit from their rent, for the immediately preceding year. When the tenant vacates the unit, the landlord must also pay interest for the period of time since the last interest payment. Please do not hesitate to call us for help in calculating the amount owed.

How is Your Unit Covered by the Ordinance?

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 condos) 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 units 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 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!

Tenants: Get To Know Your Resources!

The following City departments enforce various state and local laws designed to ensure that residential rental housing is well maintained:

Berkeley Rent Stabilization Program: (510) 644-6128

Housing Code Enforcement: (510) 981-5444

Tenant Rental Relocation: (510) 981-5418

Rental Housing Safety Program: (510) 981-5445

Environmental Health: (510) 981-5310

Police: (510) 981-5900

Refuse: (510) 981-6350

Fire Prevention: (510) 981-5585

The Makings of a Habitable Apartment

State law mandates that landlords maintain a basic level of habitability in every apartment. If any are lacking, then give us a call -- we can advise you on how to go about getting problems fixed, and let you know if you are eligible for a rent reduction.

- Entry doors have working deadbolt locks
- All electrical sockets are behind coverplates
- The unit does not have exposed wiring
- Stove burners and oven work safely with functioning doors and knobs
- Gas appliances operate free of gaseous odors
- Water heater is in working order and has a working temperature and pressure relief valve
- Smoke detectors are installed in hallways and sleeping rooms
- Hot and cold running water
- A functional sewer system
- Windows are operable and bars, if present, have a release mechanism
- The floor is free of any trip hazards
- The roof has no leaks
- The entrances and exits are easily accessible
- The unit should be adequately water- and weather-proofed, so as to prevent undue mold infestation
- The unit should be free of trash, rodents and vermin

Every rental unit over five years old in the City of Berkeley must be inspected annually by July 1 for safety. Check with the Rental Housing Safety Program to confirm that your landlord has filed a safety certification in the past year. If you believe that your unit has housing code violations, you might consider calling Housing Code Enforcement at 981-5444 to schedule an inspection.



Getting Help from the Rent Board

Counseling: Housing counselors assist landlords and tenants by telephone or in person at our office. Counselors give information on rights and obligations under the Rent Ordinance and state law. They can advise parties on the best ways to approach problems and to get them resolved.

Mediation: If you are having a dispute with a landlord, roommate, or another tenant in the building, the Rent Board can help mediate your dispute in an informal setting.

Petitions: Tenants or landlords who wish to adjust their rent ceilings down or up can file petitions. After a hearing, the Rent Stabilization Program issues a binding decision for each petition.

Property information: Rent Board records concerning individual rent ceiling histories can be examined at our office, and copies can be made upon request.

Outreach: Rent Board staff is available to do special presentations or counseling sessions. If you represent a group that has common issues around rent control or landlord/tenant matters in general, call us. We will come to you! Outreach staff is available to help you organize an event and provide useful information.

Proposed Measures for November Ballot *continued from Page 1*

be filled by election at the next feasible general municipal election. Such elections currently occur every two years, in November of even numbered years. In the interim, the Rent Stabilization Board would be authorized to fill the position by appointment. The interim appointee would serve until November 30 of the year that the election to fill the vacant office occurs.

When the election for the vacant office takes place with two years remaining in the term of the vacant office, the Commissioner who is elected with the fewest votes at the elec-

tion for Rent Stabilization Board Commissioner assumes the vacant office with the unexpired two-year term.

Under the current provisions of the charter, a vacancy in office that occurs when there is more than a year left in the four-year term can only be filled at a special election.

Financial Implications: There would be a savings of approximately \$400,000, which is the estimated cost of calling a city wide special election to elect a Rent Board Commissioner to fill a vacant office with an unexpired term of more than one year.

The following have signed arguments in favor of Measure E:

Assemblymember Loni Hancock, City Council Member Dona Spring, City Council Member Gordon Wozniak, Rent Stabilization Board Chair Howard Chong, and Rent Stabilization Board Commissioner Jason Overman.

No arguments against Measure E have been submitted.

For the full text of the ballot measure and arguments, please visit www.ci.berkeley.ca.us/elections/measures/2006/bmindex.htm and click on "Measure E."

Goodbye to a Rent Board Counselor

We'd like to offer a fond farewell to Dahl Shannon, a long-time Rent Board housing counselor who retired in August. Dahl offered advice to countless Berkeley tenants and owners. She offered a wealth of assistance to the rental community, and she will be greatly missed. We wish her the best of luck on all of her endeavors.

Did You Know?

Rent-Controlled Cities Lead in New Apartment Construction in Bay Area

Sometimes even the most oft-repeated "facts" turn out not to be true. Rent control has been the subject its own series of myths. One of the most pervasive notions - widely held among opponents - is that since its inception rent control has been a deterrent to new construction. However, data on new construction published by the Census Bureau soundly debunks this myth. The data (see table) clearly demonstrate that the rate of apartment construction has been much higher in Bay Area rent-controlled jurisdictions than non-rent controlled jurisdictions.

During the past ten years (1996-2005), approximately half of the apartment construction has taken

place within rent-controlled jurisdictions even though the rent-controlled jurisdictions contain only 4.9% of the land in the Bay Area. In contrast, in 31 out of the 89 cities in the Bay Area (none of which have rent control), either not one single apartment unit was constructed from 1996 through 2005, or the volume of apartment construction was virtually nil, an average of less than five apartments units a year.

The proportion of apartment construction in the rent-controlled jurisdictions was also much higher than their share of the land area during the first 15 years of rent control (1980-1995).

New Apartment Construction Bay Area 1996-2005

Jurisdiction	Land Area		Population		Multifamily Const.	
	Sq. Miles	Pct.of Bay Area Total	Population	Pct. of Bay Area Total	Total	Pct.of Bay Area Total
All	6815.5	100%	6,825,715	100%	104,540	100%
Rent Controlled Cities	332.4	4.9%	2,345,154	34.4%	50,627	48.4%
Non Rent Controlled Jurisdictions	6,483.1	95.1%	4,480,561	65.6%	53,913	51.6%
Berkeley	10.5	0.2%	102,049	1.5%	1,146	1.1%

ASK THE RENT BOARD

I don't understand why I am paying \$350 more in rent than my neighbor when our apartments are virtually identical.

No law states that a landlord must charge comparable rents for comparable apartments, even for tenancies beginning at the same time, except that a landlord may not charge a higher rent for discriminatory reasons. The discrepancy probably results from the Costa-Hawkins Rental Housing Act, which implemented full vacancy decontrol beginning in 1999, allowing landlords to charge a "market" rent (whatever rent the landlord and tenant agree to) when a new tenancy begins. For three years before that, rents for new tenancies were tied to the amount the previous tenants paid. Thus, if your tenancy began during or after 1999, and your neighbor moved in before 1999, the disparity in rents is not surprising.

Nevertheless, if you believe you are paying more than the landlord would otherwise be able to get for your rental unit, you might try renegotiating your rent with the landlord. If less expensive rentals are available, your landlord might be willing to lower your rent, especially if you've been a good tenant. Having you stay at a lower rent would be preferable to losing you, because she may not find a new tenant for what you're now paying, and she may not want the hassle of finding a new tenant for a lower rent.

Can I charge an extra deposit for pets?

Generally a landlord can only establish the security deposit amount at the beginning of a tenancy, and this amount cannot be increased. However last year the Rent Board passed Regulation 705. Under this regulation, a tenant and landlord may mutually agree in writing to collect an additional deposit for the acquisition of a pet if the rental agreement does not already allow for one. Remember, however, that under state law, the overall amount of the deposit (which includes the last month's rent payment if one was collected at the inception of the tenancy) cannot exceed two months' rent.

I just moved into a new rental unit, and my telephone connection is not working. I tested my phone, and then called SBC to test the outside wiring, and they concluded that it must be the internal wiring. They said it would cost over \$150 for them to come out, identify, and fix the problem. Is this my responsibility or the landlord's?

California Civil Code section 1941.4 states that landlords are responsible for installing a basic working phone jack in each rental unit and for maintaining the inside wiring in good working order. This applies only to a single working phone jack. If you wish to have more than one working jack, then you would be responsible for any additional work done by the phone company.

Free Rent and Your Rent Ceiling KNOW THE FACTS!

Tenants, did you receive a month's free rent at the inception of your tenancy? Landlords, thinking of offering discounted rent for a few months to encourage tenants to move into your rental unit?

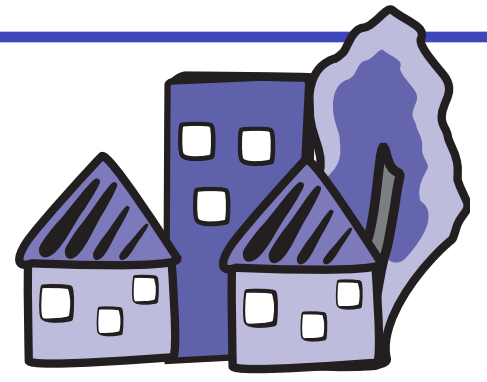
Rent Board Regulation 1013(A)(2) requires that free or discounted rent be factored into the permanent rent ceiling for rent-controlled units. The rent ceiling is calculated as the average of the monthly payments made during the initial term of the agreement or, in the case of a month-to-month tenancy, during the first twelve months of the tenancy. Therefore, if a 12-month rental agreement includes a free month's rent at the inception of the tenancy, the rent ceiling would be calculated by multiplying the monthly rent by 11 and dividing the total by 12. (For example, if the contract rent is \$1,000.00 and the rental agreement allows for a free month's rent, the permanent rent ceiling would be \$916.67 -- 11 multiplied by \$1,000.00 (\$11,000.00), and divided by 12.

Please make sure to correctly fill out the Vacancy Registration Forms if there is free or discounted rent at the inception the tenancy. Please give us a call if you have any questions.

Lead Funding Drop-in Hours

Attention, Berkeley property owners! Find out how to receive funding for lead hazard repairs in rental properties built prior to 1978 and occupied by low-income tenants or vacant units in Berkeley, Oakland or Emeryville.

Drop-in hours are every Monday starting Sept. 11 through Dec. 18, 4:00-6:00 p.m., at 2000 Embarcadero, #300, Oakland. Application assistance is provided. Parking is free! For more information, or to schedule an appointment, please call the Alameda County Lead Poisoning Prevention Program at (510) 567-8280.



Workshop Series

The Berkeley Rent Board regularly hosts workshops to offer a forum for landlords and tenants to learn more about their rights and responsibilities. All workshops will be held at Rent Stabilization Board offices in downtown Berkeley, 2125 Milvia St. Upcoming workshops include:

Condo Conversion Ordinance: Know your rights and protections under this law, and learn about recently proposed changes.

Oct. 18, 2006 @ 5:30; and

Nov. 29, 2006 @ 5:30

Introduction to Rent Control: This workshop will outline the rights and obligations of tenants and property owners under the Berkeley Ordinance to regulate rents and prevent arbitrary evictions.

Nov. 15, 2006 @ 5:30

Interest on Security Deposits and AGA increases: Come learn how to calculate the interest owed on security deposits and the penalties for failure to return it by January 10. We will also discuss the requirements for properly raising rents that are controlled.

Dec. 12, 2006 @ 5:30

**¡HABLAMOS ESPAÑOL!
Inquilinos y Propietarios
Obtenga este Bolefín en
Español**

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

**Angelina Toscano
644-6128 ext. 122**

Announcements

Board re-authorizes \$12.00 pass-through to tenants for 2006 Registration Fee

In May of this year, the Rent Board Commissioners re-authorized a registration fee of \$154.00 per unit for the 2006/07 fiscal year. The commissioners also passed Rent Stabilization Board Resolution 06-04, which allows landlords to pass \$12.00 of the registration fee to tenants living in rent-controlled units where the current tenancy commenced prior to July 1, 2005. Landlords may increase tenants' rents by \$1.00 per month for twelve consecutive months. The \$1.00 increase is temporary and will not increase the permanent rent ceiling for purposes of calculating next year's Annual General Adjustment and will not be reflected in the Rent Board's Rent Tracking System (our agency's database).

Unless this pass-through is renewed by the Rent Board at some point in the future, the rent increase authorized by Resolution 06-04 must be terminated and the rent reduced by \$1.00 twelve months after it is imposed. The increase must be initiated by Jan. 1, 2007. Furthermore, any \$1.00 increases taken under 2005's Resolution 05-10 must have been initiated by June 30, 2005, in order for the landlord to take advantage of a similar resolution from last year.

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12:00 noon-6:30 p.m.

What's inside this issue of the Berkeley Rental News...

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**Rent
Stabilization
Program**

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