

**CITY OF BERKELEY**  
**RENT STABILIZATION BOARD**  
2125 Milvia Street, Berkeley, CA 94704  
TEL: (510) 981-7368 (981-RENT) TDD: (510) 981-6903 FAX: (510) 981-4940  
E-MAIL: rent@cityofberkeley.info INTERNET: rentboard.berkeleyca.gov

**INSTRUCTIONS FOR PETITION FOR THE DETERMINATION OF OCCUPANCY STATUS**  
**(Regulation 524)**

**GENERAL INFORMATION**

Rental units that are kept primarily for secondary residential occupancy, such as a pied-a-terre or vacation home, or primarily for non-residential use, such as storage, commercial or office use, are not subject to the rent ceiling limitations of the Rent Ordinance (Berkeley Municipal Code Sections 13.76.110 and 13.76.120). The landlord of any rental unit may seek a determination that a unit is not being rented by a tenant who occupies the unit as a primary residence by filing a petition. Concurrent with or anytime after the filing of the petition, the landlord may give legal notice of a rent increase that exceeds the Rent Ordinance limitations, but the increase is stayed while the occupancy status is being determined and becomes operative only if the landlord's petition is granted.

To determine whether a tenant qualifies as a tenant in occupancy, the Hearing Examiner will look to whether the tenant is a tenant in occupancy as of the date of the scheduled initial hearing. Evidence of a tenant's past occupancy status shall not be considered for the purpose of determining whether the tenant qualifies as a tenant in occupancy unless the evidence is related to the tenant's current occupancy status as of the date of the scheduled initial hearing.

Before filing this petition, you may find it helpful to review the Rent Ordinance and an explanatory packet about this petition, which includes Rent Board Regulations 524 and 525. Copies of the Ordinance and this packet are available at the Rent Board's Office and on the Internet (<http://www.ci.berkeley.ca.us/rent>). Rent Board counselors are available to answer questions about the petition process, in person or by telephone at the number listed above, Mondays, Tuesdays, Thursdays and Fridays, 9:00 a.m. to 4:45 p.m., and Wednesdays, 12:00 noon to 6:30 p.m.

**FILING THE PETITION**

To obtain a determination of a unit's occupancy status, you must mail or bring the following items to the above address:

1. A completed petition signed by the owner;
2. A copy of any supporting documentation;
3. A proof of service stating that **all** tenants claiming a right to possession of the unit were served a copy of the petition and any supporting documentation either by first-class mail to all known addresses or in person. **Failure to serve a copy of the petition on the tenant(s) may delay resolution of the petition.**

**AFTER THE PETITION IS FILED**

Upon receipt of the petition, the Board will mail a Notice of Hearing with instructions to the opposing party. A hearing will be held on the petition no later than 30 days from the date the completed petition is filed. A written decision will be mailed to each party within 30 days after the close of the record.

A determination that a tenant is not a tenant in occupancy must be supported by a preponderance of the evidence presented to the hearing examiner. Occupancy as a primary residence does not require that the individual be physically present in the unit at all times or continuously, but the unit must be the tenant's usual place of return. If the owner presents sufficient evidence that the unit is not continuously occupied by the individual as a primary residence, the burden of proving that the unit is the tenant's usual place of return shall shift to the tenant.

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PETITION NO. D- \_\_\_\_\_

**PETITION FOR DETERMINATION OF OCCUPANCY STATUS**  
(Rent Board Regulations 524/525)

I claim that the rental unit listed below is exempt from the rent ceiling limitations of the Berkeley Rent Ordinance because the unit is not being occupied as a primary residence by the tenant.

**A. Property Address:** \_\_\_\_\_

Total number of residential units on the property: \_\_\_\_\_

Designations of unit(s) claimed exempt: \_\_\_\_\_

**B. Landlord:** \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Daytime Phone ( \_\_\_\_\_ ) \_\_\_\_\_ Fax ( \_\_\_\_\_ ) \_\_\_\_\_

Email address \_\_\_\_\_ @ \_\_\_\_\_

**C. Attorney or other authorized representative (if any):** \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Daytime Phone ( \_\_\_\_\_ ) \_\_\_\_\_ Fax ( \_\_\_\_\_ ) \_\_\_\_\_

Email address \_\_\_\_\_ @ \_\_\_\_\_

**D. Unit and Tenants/occupants covered by this request:**

**(The landlord must allege that the unit is not occupied by any sub-tenant(s))**

Unit No.: \_\_\_\_\_ (use the Supplement for additional units):

Date tenancy began: \_\_\_\_\_

Date owner believes tenant ceased to reside in unit as their primary residence: \_\_\_\_\_

Is the unit occupied by a subtenant?       Yes       No

Current use of unit: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**D. Unit and Tenants/occupants covered by this request, (cont'd.):**

Unit: \_\_\_\_\_

Tenant(s) named in lease or rental agreement:

Name	Address	Phone

Additional known occupants:

Name	Address	Phone

List the names, addresses and phone numbers of all contacts provided by the tenant:

Name	Address	Phone

**E. State the basis for the claim of exemption:**

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**F. Certification: I declare under penalty of perjury under the laws of the State of California that the information stated above, and in any attachments, is true and correct.**

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_

**PETITION FOR DETERMINATION OF OCCUPANCY STATUS**  
**Supplement to Sections D and E: Additional unit covered by this request**

**D. Unit and Tenants/occupants covered by this request:**

Unit No.: \_\_\_\_\_

Date tenancy began: \_\_\_\_\_

Date owner believes tenant ceased to reside in unit as their primary residence: \_\_\_\_\_

Is the unit occupied by a subtenant?       Yes       No

Current use of unit: \_\_\_\_\_

Tenant(s) named in lease or rental agreement:

Name	Address	Phone

Additional known occupants:

Name	Address	Phone

List the names, addresses and phone numbers of all contacts provided by the tenant:

Name	Address	Phone

**E. State the basis for the claim of exemption:**

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**PROOF OF SERVICE**

I AM A RESIDENT OF \_\_\_\_\_ COUNTY AND WAS, AT THE TIME OF SERVICE, OVER  
EIGHTEEN YEARS OF AGE. ON \_\_\_\_\_ (DATE), I SERVED ONE COPY OF THE  
FOLLOWING DOCUMENT(S): \_\_\_\_\_  
\_\_\_\_\_

BY: (CHECK APPROPRIATE BOX)

**DELIVERING THE DOCUMENTS IN PERSON TO THE FOLLOWING INDIVIDUAL(S):**  
[PRINT NAME OF EACH PARTY SERVED:]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PLACING THE DOCUMENTS, ENCLOSED IN A SEALED ENVELOPE WITH FIRST-CLASS POSTAGE  
FULLY PAID, INTO A U.S. POSTAL SERVICE MAILBOX, ADDRESSED AS FOLLOWS:**  
[PRINT NAME AND ADDRESS AS SHOWN ON ENVELOPE OF EACH PARTY SERVED:]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF CALIFORNIA THAT THE  
FOREGOING IS TRUE AND CORRECT.**

\_\_\_\_\_  
(SIGNATURE) (DATE)

\_\_\_\_\_  
(PRINTED NAME)