



Rent Stabilization Board

DATE: March 18, 2021
TO: Honorable Members of the Rent Stabilization Board
FROM: IRA/AGA/Registration Committee
SUBJECT: Letter to Council Re: Fourplex Zoning

Recommendation:

That the Berkeley Rent Stabilization Board send the attached letter with the Boards comments, suggestions, and concerns about the proposed fourplex zoning proposal to the Berkeley City Council.

Background:

The Berkeley City Council is in the process of considering a referral to the Planning Commission to amend the zoning ordinance to permit up to fourplexes in all parts of the City. This comes after the Council adopted a resolution declaring its intent to abolish single-family zoning and replace it with up to 4-unit zoning.

Higher density does not conflict with robust tenant protections but nor does it inherently provide affordable housing or address discriminatory housing practice. As we have seen several cycles of legislation proposed at the state and local levels deregulating zoning decisions for new construction, we believe it is helpful to provide clear direction by the Elected Rent Board which is tasked with protecting safe, affordable housing in Berkeley. The attached letter lays out the principles that are essential to ensuring that the proposed upzoning doesn't cause gentrification or displacement, conserves the City's stock of rent controlled housing, contributes an appropriate amount of deed restricted affordable housing to fulfill the objective of satisfying the "Missing Middle," and generates new rent controlled units as allowed by state law.

Financial Impact:

None.

Name and Email Address of Contact Person:

Chair Leah Simon-Weisberg, RSBSimon-Weisberg@cityofberkeley.info
Vice Chair Soli Alpert, RSBApert@cityofberkeley.info

To the Honorable Mayor and Members of the Berkeley City Council,

The Berkeley Rent Stabilization Boards sends this letter to express what we view as essential components in ensuring that the “Inclusive Neighborhood Zoning” proposal from Councilmember Droste serve Berkeley’s tenants, low-income homeowners and residents of color, specifically the Black, and brown communities with histories of discrimination in Berkeley. While we embrace increased density we know that if the City is not careful with its actions to replace it, we may repeat the mistakes of the past and create a pattern of development that serves people over profit. It is vital that the zoning amendments generate housing that will be affordable for working people and do not drive displacement.

The primary concerns of the Rent Board are as follows:

1. Demolition

No demolition of rent controlled or deed restricted units.

2. Data Collections.

As we proceed with zoning changes aimed at addressing historic racial inequities, it is important to ensure that we improve and not exacerbate the problem. The proposed process should include a method of capturing demographic data on any displacement that is caused or may have been caused, especially along racial lines but including all protected statuses, to the extent practicable.

3. Affordable Housing

- a. In line with this change being aimed at generating ‘Missing Middle’ housing, the units generated by this proposal should be capped at 150% of AMI with one unit that is 80% of AMI.
- b. Lower the threshold for the AHMF to include this new type of development

4. Ant-Displacement and Anti-Speculation Measures

- a. Special consideration of sensitive communities within Berkeley
- b. No ministerial approval on lots that have tenants or have had tenants within 10 years or have been emptied through the threat or actual use of an eviction authorized under the Ellis Act within the last 10 years.

5. Generating New Controlled Units

- a. As often as possible do not issue certificates of occupancy
- b. Preference for rental units over condominiums: rentals are more affordable than condos and condos are exempt from rent control
- c. Preference for addition and subdivision over demolition to incentivize the creation of new rent controlled units, including potentially a prohibition on demolition of buildings older than 1980

Rent Board staff are working to develop a memo outlining the different situations under which the creation of new units, either by subdivision or the addition of new construction, may result in previously exempt space becoming eligible for rent control. When this document is ready it will be shared with the Council and all other bodies considering the proposal, with the hopes that it

will be used to create a set of amendments that maximize the potential for the creation of new rent controlled units.

Additionally, we hope that the Rent Board, both as a body of elected officials and our expert staff, are included and consulted in the process of drafting the final version of the zoning amendments. Rent board staff have a wealth of knowledge and expertise, especially concerning ways to protect Berkeley tenants throughout this process.

Sincerely,
The Berkeley Rent Stabilization Board