

Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: June 17, 2021
TO: Honorable Members of Rent Stabilization Board
FROM: Honorable Members of the Budget & Personnel Committee
By: Matt Brown, Acting Executive Director 
Lief Bursell, Senior Planner
SUBJECT: Adoption of FY 2021/22 Line-Item Budget, Staffing Model & Expenditure Level

Recommendation:

That the Board adopt Resolution 21-13 approving the FY 2021/22 line-item budget and staffing model of 24.55 FTE career employees (25.05 FTE including temporary employees) and authorizing an overall spending level of \$6,275,535, which includes \$213,000 in expenditures from the Board's Capital Reserve.

Background and Need for Rent Board Action

Legally, the Board has through the end of June to adopt a staffing model and budget with a maximum expenditure authorization for FY 2021/22. The process for adopting the annual budget is guided by the Budget and Personnel Committee, which has met six times in calendar year 2021 in order review the status of the budget, the composition of the staffing model, and the revenues and expenditures that are projected in the coming year.

When adopting its budget for the current fiscal year, the Board elected to include a formal mid-fiscal year budget review as part of the budget process for the first time. This was done in order to allow for any necessary adjustments to the budget if revenues were impacted significantly by the COVID-19 pandemic. The Board received the FY 2021/22 mid-fiscal year budget report at its February 18, 2021 meeting and, after reviewing the status of the budget, elected to amend the staffing model to add a new permanent housing counselor position to add capacity to provide additional services associated with Measure MM.

The Board also discussed its budget, as well as the projected expenditure level for next fiscal year, at its May 6, 2021 meeting. At this meeting, the Board voted to utilize some of its uncommitted reserve in order to maintain the annual registration fee at \$250 per unit and avoid raising the fee at a time when the rental housing market is still experiencing the economic impacts of the COVID-19 pandemic. The Board felt comfortable going an additional year

without adjusting the fee because of Fund 440's larger than expected uncommitted reserve balance, caused by both ongoing vacancies in several previously-budgeted positions and better than anticipated registration fee revenues.

In addition to passing the standard registration fee for fully-covered, controlled rental units, the Board considered the appropriate annual registration fee level for Measure MM units for the first time. Measure MM requires that the Board set a registration fee and imposes registration requirements on certain partially covered, rented single-family homes, condominiums, and units defined as new construction under B.M.C. Sections 13.76.040Q and 13.76.050I. The Board voted to set the Measure MM unit registration fee at a total of \$150 per unit a base fee of \$100 per unit, and an additional \$50 fee to recover FY 2020/21 implementation costs. The Board also passed a lower \$37 per unit fee for certain rental units subject to affordable housing restrictions that are required to register under Measure MM.

The Board adopted the Measure MM fee based on an estimate that 4,000 units will qualify for registration, however there is still a lot of uncertainty regarding the actual number of units that qualify for registration under these new requirements. Berkeley has not implemented a larger scale initial registration effort in nearly 40 years and staff recommend that the Board do not assume a high initial compliance rate for these units in FY 2021/22. The impact to staff capacity of providing increased services to qualifying Measure MM units is also an unknown that staff will continue to monitor.

For the reasons above, staff and the Budget & Personnel Committee recommend a somewhat conservative approach which projects a lower compliance rate of only 50% for Measure MM unit registration in this first year. The Board can then review and make any needed adjustments based on actual compliance during its formal mid-fiscal year budget review early in calendar year 2022. The mid-fiscal year budget review process was successful in allowing the board to make changes to the adopted budget in response to the passage of Measure MM. Staff recommends the Board make the mid-fiscal year review a permanent part of its annual budget process going forward to provide a formal opportunity to adjust services when actual revenues are known, and respond to any changes that take place in the first six months of the fiscal year.

Update on Measure MM Registration

Earlier this year, staff sent letters to roughly 9,000 units informing them of the new Measure MM registration requirements. This resulted in a total of 1,709 units being registered as rented or available for rent (1,323 with active tenancies, and 326 vacant but available units). On May 17, the Measure MM registration fees were posted for approximately 6,100 units in about 1,825 properties. This group was comprised of 1,565 single-family homes and 258 multi-family homes. Registration bills were mailed to the properties in two batches, the second batch posted on Tuesday, May 25, 2021.

Staff and the Budget and Personnel Committee will continue to monitor the status of FY 2021/22 Measure MM registration and will provide ongoing updates to the Board after the July 1, 2020 deadline has passed.

Final FY 2019/20 Year-end Fund Balance

On April 21, 2021 staff received a preliminary copy of the independent auditor's report on the Board's financial statements for FY 2019/20. The auditor's report states that the Rent Board's year-end revenue for FY 2020 was \$5,055,139 and that its year-end expenditures were \$5,130,732, resulting in an overall \$75,593 reduction to the Board's uncommitted reserve. Staff reviewed the outside auditor's calculations and they match with our internal records. Review of the audit results in an overall revenue decrease of just over \$27,000 when compared to the preliminary estimate the Board received during its mid-fiscal year budget review. The Board's actual uncommitted reserve stood at \$1,048,569 at the end of the previous fiscal year. Almost all of this \$27,000 change is due to duplicate registration fee charges that were initially counted twice and then corrected early this fiscal year.

During this past registration cycle there was a brief period where the agency's online payment's system was malfunctioning immediately after the IT Department performed a software upgrade. This problem was resolved relatively quickly and all payments were processed, but staff later learned it resulted in \$328,327 of FY 2020/21 revenue being counted incorrectly as FY 2019/20 revenue. Staff attempted to correct this error in time for it to be adjusted in the Board's official financial statements but these records cannot be amended after August, and staff had not fully verified the exact amount of this error until the fall. Extra time was needed to review each deposit and verify the exact amount of revenue incorrectly deposited into the previous year's registration fee account.

When the outside auditor's report is finalized it will show that Rent Board FY 2019/20's revenue is \$328,327 higher than shown in the attached budget documents. For budgetary purposes it is better for clarity and future planning to represent it as revenue in FY 2020/21, even though it is technically counted revenue from the previous fiscal year in the Board's official financial statements.

3rd Quarter Update on FY 2021 Budget Status and Year-End Projections

The agency's Mid-Fiscal Year 2021 Budget Report projected that total FY 2020/21 expenditures will be around \$800,000 lower than what the Board authorized in its adopted budget. While this is due in part to better than anticipated revenues, it is mostly the result of decreases in expenditures that come most significantly from salary savings due to the unfilled permanent Executive Director and Deputy Director positions. Expenditures from the capital reserve for the ongoing Rent Tracking System (RTS) replacement project have also been mostly delayed until next fiscal year when it is anticipated that the agency's database will fully transition to 3Di, Inc's software platform.

At the end of the 3rd quarter of FY 2020/21 (as of March 31, 2021), the agency's total revenue was \$4,912,917 and total expenditures were \$3,669,770. Staff have updated year-end projection to account for the addition of a new housing counselor, increased costs of the additional outreach and mailings to Measure MM properties, and the hiring of a temporary worker to assist with Measure MM unit registration. Staff now project that total FY 2021 expenditures will end at around \$5,130,000, and total FY 2021 revenue projects at \$4,950,000.

Overall, the Board projects to deficit spend by around \$180,000 this fiscal year and it should start next fiscal year with an uncommitted fund balance of around \$878,000, which is over 15% of projected FY 2021/22 recurring expenditures. The Board also projects to have close to \$490,000 in its capital reserve, most of which has already been earmarked for the RTS replacement project and to scan the agency's property files.

Programmatic Accomplishments in FY 2021

Responding and adjusting to the ongoing COVID-19 pandemic has made this past year uniquely challenging for both the Board and the Program. Providing all of the program's services remotely for an entire fiscal year, adjusting outreach to constant changes to state law associated with the eviction moratorium, while stretching our resources to implement the new registration requirements associated with Measure MM, are a few examples of the major challenges the Board and staff have faced. In addition to these new challenges the agency has continued to maintain its focus and energy on performing its core services to the tenants and landlords of Berkeley. The program's core services are as follows:

1. Regularly communicating with Berkeley's 50,000 plus tenants and 2,800 landlords to ensure they are aware of the protections, requirements and services under the Rent Stabilization and Eviction for Good Cause Ordinance.
2. Providing counseling and other direct services to over 1,000 clients per month who call, and email for advice and assistance. Due to the COVID-19 pandemic, we did not provide in-person counseling services this past fiscal year, but we did meet with some clients using video conferencing technology. At the Board's direction, agency staff also spent considerable time reaching out to the community through seminars and workshops, all of which were conducted remotely. The vast majority of these contacts are with Berkeley property owners and tenants.
3. Fully transitioning to remote administrative hearings and mediations using the Zoom platform on March 26, 2020, only days after the Shelter in Place Order was initially issued. Staff has held dozens of hearings through May 2021 adhering to the same pre-pandemic time frames for petition processing and scheduling.
4. Maintaining accurate records on the rents and services of over 20,000 rental units in the City of Berkeley and processing payments, changes in tenancy and exempt status, and requests for penalty waivers for all units covered by the Ordinance.
5. Guiding policy, transparency and governance: Historically 2-3 FTE are dedicated to providing policy, administrative, legal and logistical support directly for the Board and its committees. The past several years, this has increased somewhat as we address appropriate responses to the housing affordability crisis.

The vast majority of our resources are dedicated to the multitude of tasks involved in carrying out the five essential "core" areas of work listed above. Providing these services at a high level is the primary way in which we carry out the purpose and mission of the Ordinance articulated in Section 120 of the City Charter:

"The purpose of this article is to provide for proper administration of programs to regulate residential rents; to protect tenants from unwarranted rent increases and arbitrary, discriminatory

or retaliatory eviction; to help maintain the diversity of the Berkeley community; and to ensure compliance with legal obligations relating to the rental of housing.”

In addition to these “core” areas of work, the agency was tasked with two major projects this past fiscal year that took significant energy, time and focus from our staff. The first was the implementation of the new registration requirements required due to the passage of Berkeley’s Measure MM. Identifying potentially qualifying properties, developing new registration processes and procedures, and working with 3Di to create a new registration and online-payments platform has taken a substantial effort from staff, and launching the Measure MM registration portal on schedule in May was a significant accomplishment.

Before Measure MM passed in November, the agency had already contracted with 3Di, Inc. to develop an integrated software solution to replace the program’s existing RTS database. Work on this contract and requirements gathering has been ongoing throughout this entire fiscal year. Board processes for registration, fee waivers, and calculating penalties are particularly complex and have required a lot of back and forth between staff and 3Di, Inc’s project team. While the agency’s focus shifted due to Measure MM, work on the full RTS replacement project has continued to proceed in the background and will be a major focus next fiscal year.

The agency has also dedicated time to ensuring a successful transition to a new, permanent Executive Director. In October 2020, the Board hired Keren Stashower to complete an executive transition assessment. Ms. Stashower surveyed and interviewed both Board members and staff, and presented the findings of the assessment to the Board at its March 17, 2021 meeting.

The executive transition assessment identified six areas of focus for the hiring of a new, permanent Executive Director. The following three areas were identified as existing agency strengths: 1) Board development and support; 2) Protection and implementation of the Rent Stabilization Ordinance; and 3) Rent Stabilization Board advocacy. The final three areas were identified for potential agency growth/improvement: 1) Internal structure and processes; 2) Strategy and direction; and 3) People engagement and development.

On May 6, 2021 the Board authorized an additional contract with Ms. Stashower to support the agency as it looks to build on its current strengths and work on the areas for growth identified in the executive transition assessment. Staff have begun to work with Ms. Stashower to address these growth opportunities through an agency wide strategic planning effort, the prioritization of organizational trainings, and the creation of processes to improve project management. In order to allow staff time to work on these internal improvements, the Board authorized staff to close the office on the 2nd and 4th Wednesdays of the month.

In addition to these major internal and external projects, the agency has continued its ongoing efforts to fulfill the Board’s charge under the City Charter. The Board has continued to work with Council to promote important legislation that directly relates to the work agency staff perform to achieve the goals articulated in both the Charter and Rent Ordinance itself. Over the course of the last several years, the Board has taken a particularly holistic approach to addressing needs associated with community stability and ensuring that the most vulnerable members of the city have access to services that promote safe and decent housing. To that end, the Board has continued to increase contact with both the Council and other City departments in an effort to

streamline important services for both landlords and tenants, all the while working within the framework of the specific rights and responsibilities established by the Rent Ordinance. The Board and City Council's 4x4 Joint Task Force Committee on Housing (4x4 Committee) has also met increasingly to tackle important rental housing issues.

Below is a partial list of some of the important achievements the Board and agency have made over the past year:

- Provide remote services in all areas from counseling, registration, hearings & mediations, and public meetings due to Covid-19 Pandemic
- Enhanced building security and COVID-19 pandemic related improvements
- Plan for implementation and administration of the City's Fair Chance Ordinance which prohibits discrimination based on tenants' past criminal history
- Defend five Writ of Mandates, three of which were dismissed and two which resulted in decisions in the agencies favor.
- Provide background data and information about Berkeley's rent control ordinance to a team of City of Los Angeles attorneys who prepared an Amicus Brief in support of New York's rent control ordinance.
- Review and propose improvements to the Berkeley's Relocation Ordinance
- Provide input on proposed quadplex zoning proposal
- Review impacts of SB 330 on Demolition Ordinance
- Enact a COVID-19 hardship waiver process
- Outreach Counseling on state eviction moratorium
- Expanding counseling and mediation services to Measure MM units
- Provide feedback on the Berkeley Existing Buildings Electrification Strategy
- Provide live webinars on Measure MM requirements, state and local eviction moratorium
- Engage in a strategic planning process
- Work with 4x4 Committee and other stakeholders on potential revisions to the City's Demolition Ordinance.
- Complete for the first time a formal mid-fiscal year budget review process
- Work with EDC & EBCLC to shift the focus of their work from evictions to housing retention

Staff has done an outstanding job providing remote services throughout the pandemic, while also taking on the unique challenges of implementing Measure MM's new services and registration requirements. The Board and landlord/tenant community have come to expect the agency to deliver its core services at a high level, and the agency has managed to do so under some of the most trying circumstances in its history. The programs core services will remain important to both landlords and tenants as the economy returns to normal and the ability to evict tenants for the non-payment of rent is reinstated.

Goals and New Initiatives in FY 2021/22

While the agency faced unprecedented challenges this past year, it was still able to dedicate the time needed to pursue initiatives that are beyond the provision of the agency's core services in order to improve future services to all of Berkeley's rental housing stakeholders.

Staff, the Budget & Personnel Committee, Outreach and other Board committees, have identified 20 projects that are priorities during the upcoming fiscal year. Several of the larger projects, as well as city-wide policy initiatives, carry-over from this current fiscal year:

1. Complete the initial registration of Measure MM units
2. Prepare and execute a phased office reopening and begin to provide more in-person services to clients.
3. Provide outreach and assistance to tenants and landlords on laws and requirements for evictions as state and local eviction moratoriums come to an end.
4. Fully transition from the agency's existing RTS Database to the agency's new integrated software platform being developed by 3Di.
5. Recruit, select, hire and train a new permanent Executive Director.¹
6. Create and hire a new General Counsel position that reports directly to the Board.
7. Recruit, select, hire and train a new Deputy Director.²
8. Implement and administrate the City's Fair Chance Housing Ordinance.
9. Complete a survey of tenants and begin scoping a study/survey of property owners.
10. Use the 2nd and 4th Wednesdays to work on agency-wide improvement areas identified in the executive transition survey
11. Continue work to improve the Demolition Ordinance to reach the appropriate balance of allowing new construction, while protecting sitting tenants and mitigating the overall loss of housing affordability.
12. Work with the City of Berkeley to revamp and improve the Relocation Ordinance.
13. Monitor development projects including the creation of new ADUs that impact the tenancies or services to existing tenants.
14. Continue to monitor Short-Term Rental Ordinance compliance to prevent the loss of long-term rentals.
15. Provide enhanced trainings for staff and Board members
16. Continue studying and memorializing the impacts of Costa-Hawkins on Berkeley and other cities in the state.
17. Implement two-phase project to recreate all Rent Board web content (including PDFs) and transfer to new website CMS, and expand integration with the City's public records portal.

¹ The agency currently employs an Acting Executive Director who is also the Senior Staff Attorney.

² It is recommended that this recruitment follow the hiring of a permanent Executive Director and that this position be revisited during the mid-year budget review.

18. Working with City Council to assist with the adoption of the Tenant Opportunity to Purchase Act (TOPA).
19. Continue working with local and regional groups to develop a coordinated and effective response to the housing crisis.
20. Work with City of Berkeley IT Department to enhance agency cyber security.

Chief among the concerns expressed by the Budget & Personnel Committee at its June 1, 2021 meeting was expanding capacity surrounding policy expertise on the Board's staff. The Deputy Director position has long remained unfilled. The committee expressed interest in specifically pursuing a candidate for this position that may be able to increase capacity to provide direction regarding several policy initiatives the Board is interested in adopting. The Deputy Director will likely be hired shortly after the Board hires a permanent Executive Director, and the Board will be able to pursue applicants with this unique skillset.

Administration of the Fair Chance Ordinance

On April 14, 2020, the Berkeley City Council adopted the Ronald V. Dellums Fair Chance Access to Housing Ordinance (B.M.C. Chapter 13.106). The Ordinance prohibits housing providers from advertising, directly or indirectly, that they will not consider applicants with criminal histories except as required by state or federal law.

On December 14, 2020, the Board agreed in principle to administer the Ordinance on behalf of the City after receiving a letter from Mayor Arreguín requesting that the agency do so "subject to the negotiation of an agreement between the City administration and the Board regarding the specific roles and responsibilities in ordinance implementation".

On March 23, 2021, staff submitted an outline of responsibilities and roles the Board staff could take on in order to implement the ordinance, along with a proposed budget for both one-time start-up costs and ongoing annual staffing costs. Staff proposed that the Board be responsible for the counseling of landlords and tenants in Berkeley on the Ordinance, working with City Attorney's office to draft administrative regulations related to the implementation of the hearings process, including an administrative review process, and the holding full evidentiary hearings.

The proposed budget that was submitted to City of Berkeley administration represents staff best estimate on what how much staff time Ordinance implementation will take, and included \$10,350 in startup costs and \$105,500 in ongoing personal costs to administer the Ordinance. Staff recently learned from the City's Budget Manager that the requested allocation is being included in the City Council budget for next fiscal year. Staff are preparing to begin implementation of the Fair Chance Ordinance starting July 1st, 2021.

The transfer of \$115,850 in funds from the City of Berkeley is included as projected revenue in the proposed budget. Staff will monitor the number of hours dedicated to Fair Chance Ordinance administration and adjust the budget request to City Council accordingly for FY 2022/23.

Highlights of the FY 2021/22 Proposed Budget

The proposed FY 2021/22 Budget (Attachment 3) requests new spending authorization totaling \$6,275,535.³ This amount includes \$5,817,405 toward our recurring operational expenses (87% of which is for staff and office rent), \$453,130 for replacing the agency's RTS database, outside IT support and maintenance, document scanning, a tenant survey, website content rewrite, and enhanced training. The remaining \$5,000 is allocated for a temporary agency employee to assist with the initial registration of Measure MM units that was authorized by the Board at its May 6, 2021 meeting.

Several proposed FY 2021/22 line-item budget allocations are for projects that were proposed for implementation this fiscal year but were not completed due to the agency's focus on implementing Measure MM.

\$138,000 - Database Solution - The Board adopted a one-time \$20 adjustment to the registration fee in FY 2017/18, with the \$400,000 collected placed in the Board's Capital Reserve and earmarked for finding a sustainable long-term solution to our database needs. The agency has contracted with 3Di, Inc. to develop a new integrated software solution to replace the existing RTS database and anticipate the new platform will launch in December of 2021. Development was delayed due to the need to shift focus to Measure MM registration this past fiscal year. The 3Di, Inc. contract spreads out payment for the development of the database.

\$80,000 – Tenant Survey – completing a new tenant survey has been a top priority for the Outreach Committee. The Board completed its last tenant survey in 2009, which was directed by former Rent Board Deputy Director Dr. Stephen Barton. The Board will hire an outside vendor to conduct this survey, but the Outreach Committee has already proposed to consult with Dr. Barton on survey design.

\$85,000 - Enhanced Training - The proposed budget recommends that \$10,000 be allocated on a recurring basis to the Training line item (40-63) for ongoing enhanced training opportunities for staff. An additional one-time allocation of \$75,000 is set aside in the CIP line item for trainings, team-building exercises for both staff and the Board, as well as for the continued support of a consultant to help the agency respond to the growth opportunities identified in the executive transition assessment.

\$75,000 - Scanning of Property Files – Now that the majority of agency staff have worked remotely for the past year, the potential benefits of scanning all of the existing property files, and potentially additional files are even more clear. However, given the agency's focus on implementing Measure MM and completing transition to a new software and database platform in the first half of the year, staff do not anticipate beginning work on this project until the second half of FY 2021/22. Staff will provide an update on the timeline for this project with the FY 2021/22 mid-fiscal year budget report.

³ As has been described in prior communications, funding previously allocated by the Board for a specific purpose (like the \$400,000 set aside for a database solution), but unspent in the current fiscal year, will generally be carried over into the next year. These amounts are tracked independently from and not included in the total of "new" funding being requested for FY 2022.

Website Redesign Copywriting: \$25,130 – The City of Berkeley has engaged consultants specializing in web content to rewrite its existing website content for all City of Berkeley departments as part of its comprehensive website redesign project. Staff recommend allocating \$25,130 to this purpose in order to create consistency between the Board’s webpages and the City of Berkeley’s pages, improve readability and accessibility, and reduce staff time spent on copywriting.

Change in Staff Classification and a New Permanent Position - These proposed changes are described in detail below. If approved, implementing this recommendation would increase personnel expenditures by around \$250,000 in both salaries and benefits.

Need for Proposed Staffing Changes

The departure of several key staff members has necessitated a change to the staffing model. Also, there were several adjustments to the staffing model that were discussed with the Board prior to the resignation of the former Executive Director. The goal, as always, is to develop a model that will best assure the long-term stability and vibrancy of the services provided by our amazing staff.

We propose the following changes to existing classifications:

1. That the Board convert the Staff Attorney III to a new General Counsel position. The Budget & Personnel Committee has requested that the current Staff Attorney III position (commonly referred to as the Senior Staff Attorney) be converted to General Counsel. This position, like the Executive Director, will be hired directly by the Board and report directly to the Commissioners.⁴ The General Counsel would be primarily responsible for managing the Board’s legal unit and would take on additional responsibility to advise the Board regarding confidential matters. The General Counsel position would not report directly to the Executive Director but will work in conjunction with them in order to accomplish the direction set by the elected Commissioners.
2. That the Board create a new permanent Associate Planner position. The Budget & Personnel Committee has requested that the Board add the necessary staff capacity to work on the planning and housing policy related projects identified in the Board’s goals for FY 2021/22. The agency currently has a staff person in a temporary Associate Planner position that is set to expire on June 30, 2021. The staff person in this temporary position has a permanent position in the City of Berkeley’s Health, Housing, and Community Services (HHCS) Department. Initially, staff were prepared to recommend that the Board extend this temporary position through December 31, 2021, however there is currently a staffing shortage in the HHCS Department and there have been several conversations about how to best navigate both the staff shortage in HHCS and the Board’s need to maintain staff capacity for the planning and housing policy projects. After discussing the

⁴ There are details yet to work out for the General Counsel position. Since this position will be hired directly by the Board, the agency must execute an employment contract for the position. The Budget & Personnel Committee has not yet considered the issue of salary, but the Board Chair has recommended that the salary be set at the current range of the Executive Director. The salary the General Counsel would receive would depend on the experience and unique qualifications of any candidate.

issue internally, the acting Executive Director reached a tentative agreement with the HHCS Director to have the staff person in the agency's temporary Associate Planner position split their time between the Rent Board and HHCS through the end of calendar year 2021. Extending the existing temporary Associate Planner position, even at only 50%, will allow the agency to maintain some of its capacity while it goes through the hiring process for a permanent Associate Planner and also provide some needed capacity to the HHCS Department. Ideally, the agency can time the hiring of a new Associate Planner so that there is some overlap with the temporary position for training purposes.

The Budget & Personnel Committee also asked staff to consider adding a 4th attorney to the staffing model. As soon as the Board hires a permanent Executive Director, the agency will get another full-time attorney dedicated to performing legal work – the current Senior Staff Attorney has been acting Executive Director since April 2020 and unable to dedicate significant time to legal issues. Hiring another staff attorney will be a considerable ongoing expense as these positions are costly. Staff strongly recommends deferring this decision until the mid-year budget review when the Board will have had a chance to evaluate the needs of the agency after the legal unit receives another attorney by way of releasing the current Senior Staff Attorney from his duties associated with the Executive Director position.

Update on Rent Tracking System (RTS) and Case Management Replacement Project

On August 20, 2020 the Board authorized its acting Executive Director to enter into a contract with software vendor, 3Di, Inc., to replace the agency's existing RTS database and case management system with an integrated software solution. RTS is essential for registration of properties, calculating of rent ceilings, implementing Hearing's Unit decisions, collection of registration fees and penalties. The Rent Board's case management system (also known as RTS2) allows Housing Counselors to input and track data on cases and record client contacts.

Staff began negotiating with 3Di in August and September, and after a delay due to finalizing cyber-security requirements between 3Di and the City of Berkeley IT Department, came to an agreement on contract terms in late October of 2020. During contract negotiations staff apprised 3Di that additional registration requirements could be passed by Berkeley voters via Measure MM and included these requirements in the contracts scope of work. When staff learned that the software developer responsible for programming its existing RTS database did not have capacity to create a new registration module for Measure MM properties in November or December, staff asked 3Di to prioritize Measure MM registration requirements if it was passed by Berkeley voters in November.

When Measure MM passed, 3Di began working in earnest to develop the functionality to register, bill and accept payments for Measure MM units. Working with 3Di to develop these requirements has been a constant priority, and staff are pleased to report the Measure MM registration and platform has been developed and went live on May 16, 2021. 3Di is now working on the processes for late payment and calculation of associated penalties. When development of all processes necessary to support Measure MM registration are complete, 3Di will shift their focus to the development of the outstanding features needed to replace both RTS and the case management system.

3Di has met regularly with different staff members to gather requirements for agency functions such as hearings and mediations, processing eviction notices, and case management for housing counselors. At this point staff anticipate all processes needed to replace the existing systems will go-live in December of 2021.

The Rent Stabilization Fund (440) currently has a total of \$490,000 in capital reserves, \$400,000 of which was collected in FY 2017/18 to cover the costs of the replacement of RTS. Staff anticipate spending \$138,000 on development and support of the new 3Di software platform in FY 2021/22. Much of the rest of the capital reserve is dedicated to continued maintenance of the 3Di system and will be paid in subsequent years.

Status of the 440 Reserve Balance

Historically, the Board has attempted to maintain a “one-to-two-month” uncommitted reserve balance in the Rent Stabilization Fund. The City Auditor’s recommendation is that the reserve contains at least two months or 16% of the agency’s reoccurring operational budget. Certain Departments, such as the Berkeley’s Planning & Development department aim to maintain a much larger reserve, closer to twelve months. Such a large reserve has historically not been necessary for the Board since registration revenues have become very consistent, and therefore a relatively small reserve of between 8%-16% has met the Board’s needs.

Although the Board has previously chosen to go below the 8% reserve level to contain the size of fee increases, it has maintained its reserve of over 16% since the end of Fiscal Year 2017/18. We anticipate we will end this current fiscal year with an uncommitted reserve of over 14%. This is nearly 10% higher than initially budgeted and is due mostly to salary savings and the fact that revenues did not decrease as significantly as the Board anticipated despite the economic impact of the COVID-19 Pandemic. Due to these reasons, the Rent Stabilization Fund (440) has just under a two-month reserve. The Board also has \$490,000 set aside in the Capital Reserve, though as was discussed in the previous section, most of that is earmarked for the ongoing development of the RTS replacement project and the file scanning project.

On May 6th, the Board agreed to maintain the amount of the registration fee for fully-covered rental units at \$250 per unit for the fourth consecutive year. The Board wanted to avoid increasing the fully-covered fee that applies to between 19,000 and 20,000 units at time when the economy and rental housing market is still impacted by the COVID-19 pandemic.

The Board also set the Measure MM fee for the first time at \$150 per unit. This fee is calculated based on the additional costs associated with implementing Measure MM registration and providing expanded services to the units in FY 2021/22 (\$100 per unit), and on the revenue required to cover the additional expenses associated with registering and providing services for partially covered units during FY 2020/21 (\$50 per unit).

The proposed budget also allocates \$213,000 of the capital reserve towards the RTS replacement project and the file scanning project. The Board will have a remaining capital reserve of \$277,000, though the majority of this, including at least \$138,000 in FY 2022/23, is dedicated to the RTS replacement project being developed by 3Di.

The proposed budget assumes a low 50% initial compliance rate for Measure MM units, and assumes that only 4,000 units will qualify for registration. The proposed budget therefore reflects that the Board will receive just \$300,000 in Measure MM registration fee revenue next fiscal year. Since the compliance rate for these units is not yet known, staff recommend the Board take a conservative approach and plan to use some of the uncommitted reserve to make-up for any Measure MM properties that are slow to comply with the new registration requirements. Since the agency sent out Measure MM bills to over 6,000 units, there is a definitely a possibility that FY 2021/22 Measure MM revenue will eventually exceed this estimate.

Even if the Measure MM unit compliance rate only results in revenue of around \$300,000 in this initial year of registration, the compliance rate for these units should increase significantly as staff continues its outreach efforts to property owners in future fiscal years. With overall FY 2021/22 revenue projected at \$5,515,850 (including the City of Berkeley's allocation for Fair Chance Ordinance administration), the expenditure level proposed by the Budget & Personnel committee would reduce the Board's uncommitted reserve by around \$547,000. At this level the Board would end FY 2021/22 with approximately \$332,000 in uncommitted reserve, which is approximately 6% of its reoccurring operational budget.

Sustainability of FUND 440 Reserve Balance

The possibility of ending FY 2021/22 with an uncommitted reserve that is below 8% (the lower end of the Board's reserve policy) reinforces the need to again rely on a formal mid-fiscal year budget review process in order to adjust expenditures if Measure MM revenue comes in lower than anticipated.

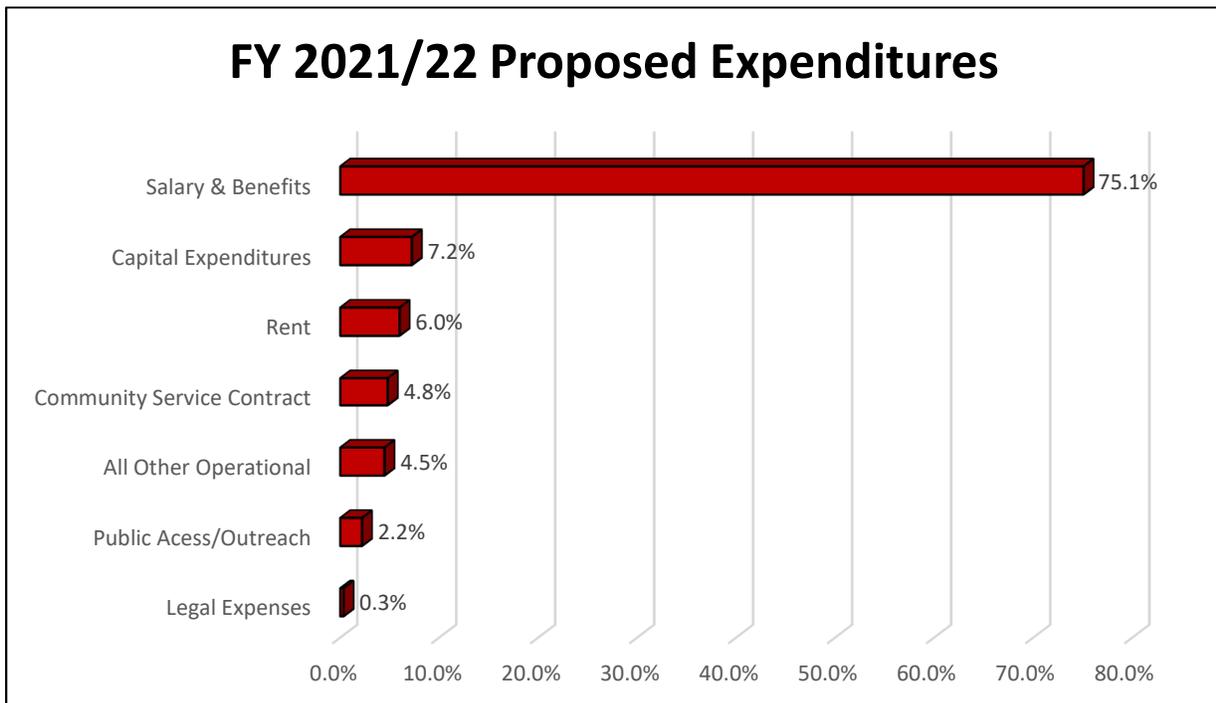
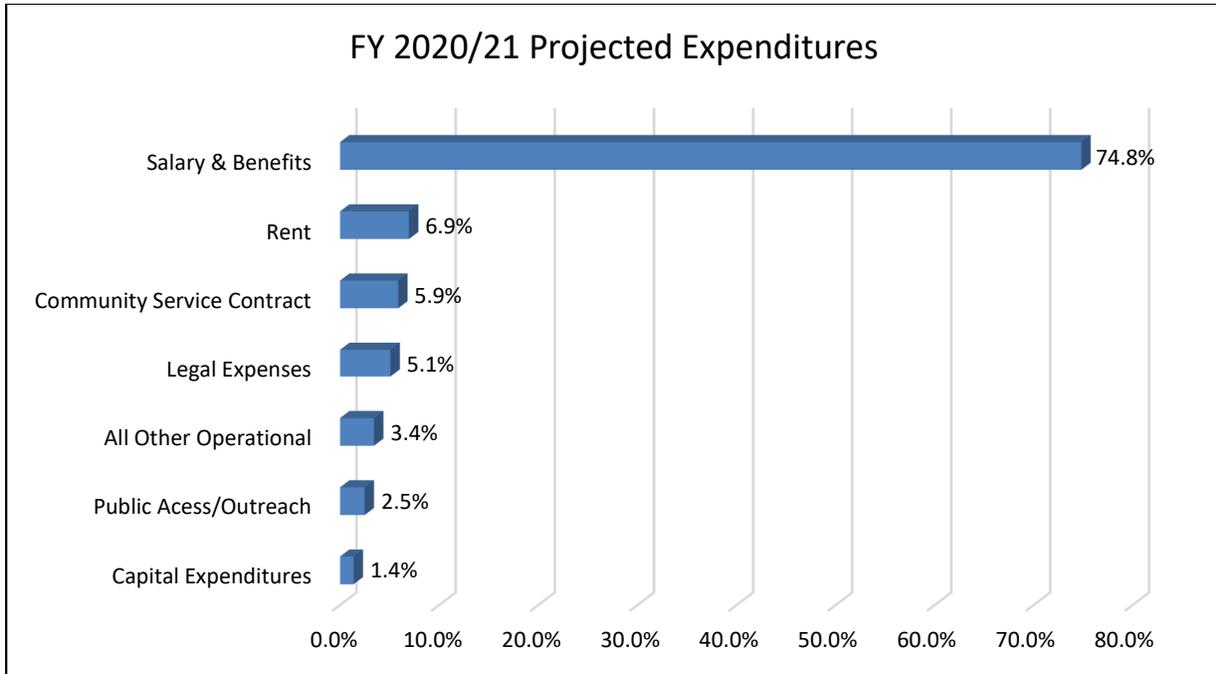
For the FY 2021/22 budget, staff 's recommendation proposes a 62% drawdown of the Board's uncommitted reserve and a 44% drawdown of the Board's capital reserve. Overall, the Board is in a good fiscal position, having weathered the economic uncertainties posed by the COVID-19 Pandemic this past 15 months. The proposed drawdown of the Board's reserve is also far less than what the Board approved for this fiscal year.

When the Measure MM requirements are fully implemented, the Board will have a better idea of the staffing needed to serve these units, and it will also have better information to project the revenue Measure MM units will provide to pay for these services and thus allow for a more accurate fee calculation for the FY 2021/22 registration fee levels. As the rental housing market recovers, the Board may wish to reexamine its reserve policy and allocate some of next year's revenue to restore its uncommitted reserve to the ideal level if it does indeed drop below 8%.

The Board is considering this budget proposal when the economy is still recovering from a recent crisis, while at the same time implementing a completely new registration process. Under these circumstances, we think it is in the agency's best interest to utilize the reserve in this manner and to return to its normal "pay as you go" method when Berkeley's student population has returned and the rental housing market in has regained some stability. Staff do not recommend the Board make a practice of using the reserve to fund recurring expenditures unless special conditions such as these require it.

Graphic Overview of Changes in Rent Board Expenditures

The graphics below compare, in broad categories, how the Board budget is allocated in both the current fiscal year and in the proposed budget.



Explanation of the Line-Item Budget

The budget proposal primarily focuses on the necessary expenditures to maintain the agency's core services. Changes from the previously adopted budget are described under each item.

Monthly Employees (11-01): Proposed expenditures will increase from the FY 2020/21 adopted budget by \$368,000. This increase reflects the housing counselor position the Board added to provide additional services to Measure MM units, the added cost of a new General Counsel position, and a new permanent Associate Planner position. There is also a small increase for seniority step increases scheduled under the various labor contracts already negotiated and approved by the Council and Board. Staff has included an additional 1% allocation for possible cost of living adjustments for staff salaries since the current labor contracts for the two SEIU Local 1021 unions expire this month. **Total request = \$2,850,000.**

Hourly Employees (11-03): Between FY 2018/19 and FY 2019/20 the Board utilized a temporary Staff Attorney I position, a temporary Hearing Examiner position, and a temporary Office Specialist II position that were budgeted as hourly employees. These positions have since been converted to permanent positions or eliminated. The agency currently has one temporary Associate Planner position that is being filled by a permanent City of Berkeley employee, and is therefore included as a monthly employee (11-01) expenditure. The proposed staffing model does not include any temporary employees for this fiscal year. **Total request = \$0.**

Overtime (13-01): Given that the agency's Registration Unit and Public Information Unit are fully staffed, there is not a significant need for overtime anticipated for next fiscal year. In order to maintain preparation for any special projects that require staff overtime, the proposed budget recommends a reduced allocation for overtime work of \$2,000. **Total request = \$2,000**

Fringe Benefits (27-20): Fringe benefits in FY 2017/18 were 65.5% of the total salary for monthly and hourly employees. This decreased to around 61-62% for FY 2020/21. This is mainly due to the fact that there are more new employees at the Board. Internal projections anticipate that the fringe rate of closer 60% for employees. Given the new staff positions discussed earlier, proposed benefit expenditures will increase from the FY 2020/21 adopted budget by \$180,000. **Total request = \$1,800,000**

Stipends (30-12): We do not anticipate any Board vacancies and the proposed budget recommends this allocation remain unchanged for FY 2021/22. **Total request = \$53,500**

Misc. Legal Expenses (30-23): For most of the past decade, these costs have been limited to \$3,000 - \$4,000 annually for the service of the small claims lawsuits and some incidental court costs. In FY 2019/20 the Board contracted with outside legal counsel and an investigator related to confidential personnel matters. This year the proposed budget allocates funds for additional outside counsel to support the Board as the it hires a new Executive Director and General Counsel. **Total request = \$20,000**

Temp Agency Employees (30-36): On May 6, 2021 the Board authorized staff to hire a temporary agency employee to assist with Measure MM registration. The registration work spans

both FY 2020/21 and FY 2021/22 resulting in a small allocation for next fiscal year. Staff do not anticipate hiring another temp. for the following registration season. **Total request = \$5,000**

Misc. Professional Services (30-38): This line item represents our contracts with community service agencies to provide eviction counseling and defense to low-income clients (totaling \$300,000 in FY 2020/21) as well as the contract with our legislative advocate (\$60,000 in FY 2020/21). These vendors are not proposing any increases for FY 2021/22. On May 13, 2021 the Eviction/Section 8/Foreclosure Committee voted to approve proposals for contract extensions for both the East Bay Community Law Center (EBCLC) and the Eviction Defense Center (EDC). All three contracts will be discussed in greater detail at the June 17, 2021 Board Meeting. The Budget & Personnel Committee has also expressed interest in having an outside recruiter assist with the recruitment for the vacant Executive Director position. Staff recommends allocating approximately \$50,000 for this purpose. **Total request = \$410,000**

Office Equip Mtc./Copy Machine (30-42): This is for the maintenance and servicing of our two copy machines. **Total request = \$13,000**

Bldg Structures Mtc. Svc. (30-43): This line item primarily covers pest control and other minor building maintenance issues not covered in our rental contract with the building owner. Through March of FY 2020/21, \$291 has gone to this expenditure. The proposed budget recommends a slight increase of \$100 to this allocation for next year. **Total request = \$500**

Bank Credit Card Fees (30-51): The Board incurs service fees charged by banks so that owners may pay their registration fees with a credit card. Staff is projecting a total expenditure of \$20,000 for this line item in FY 2020/21. Given the possibility Measure MM unit registration and payments increase next fiscal year, staff recommends the Board allocate \$25,000 for this line item in FY 2021/22. **Total request = \$25,000**

Professional Dues and Intern Fees (40-10): Consistent with City practice, the Program pays for the dues/fees that we require incumbents of a position to hold. The most common are bar dues, but we also may pay for other required dues such as Notary Public Certification dues. This item also included previous charges for Cal in Local Government interns, which the Board will not participate in this fiscal year. **Total request = \$3,000.**

Telephones (40-31): Includes charges for mobile devices (cell phones) as well as phones housed in our offices. This also includes charges for wireless connectivity. We estimate FY 2020/21 expenditures will be approximately \$5,000 and do not anticipate this will change in FY 2021/22. **Total request = \$5,000**

Printing and Binding (40-50): Includes charges for the printing of all postcards and newsletters, the annual report, large mailings (like the AGA and ALRC mailings to owners and tenants) and the Guide to Rent Control. The agency experienced increase costs in this area due to Measure MM unit mailings and staff propose a \$10,000 increase to this line-item for next fiscal year as Measure MM unit registration continues. **Total request = \$35,000**

Transportation & Commercial Travel (40-61 & previously 40-64): These line items were combined when the City moved to its new cloud-based financial software system ERMA in October of 2018. Due to the COVID-19 pandemic, this allocation has all but gone unused in FY 2020/21. We recommend reducing this allocation from \$5,000 to \$3,000, as it is very unlikely that staff will travel frequently due to COVID-19 safety concerns, particularly during the first half of the year. **Total request = \$3,000**

Meals and Lodging (40-62): This line item is for the cost of food and/or lodging when on Rent Board business out of town. As we explained for the previous items, there is an uncertainty regarding the exact amount of travel staff will make next fiscal year. Since the allocation is small, staff recommend leaving it at \$1,000. **Total request = \$1,000**

Training and Registration Fees (40-63): For the past several years, the majority of the allocation covers MCLE (ongoing legal training) and fees for professional conferences or trainings attended by staff or the Board. Two years ago, the Board increased the allocation for this item by \$10,000 to accommodate for additional recurring professional trainings of interest to Program staff and Board members, as appropriate. **Total request = \$12,000**

Advertising/Public Access (40-70): The total amount budgeted for these services in FY 2020/21 is \$30,000. The majority of these costs are associated with making the activities and proceedings of the Board accessible and transparent to the public. Major expenditures include cable coverage on BCM, closed captioning of our meetings, and webcasting of our meetings. Other typical costs in this category include PTA directory advertisements, Rent Board magnets, the design of newsletters, the publishing of legal notices and attendance at community events. Staff recommend an increase to this allocation by \$15,000 for FY 2021/22. This would make the total allocation \$45,000, which is the same amount that the Board adopted for this line-item in FY 2019/20. **Total request = \$45,000**

Books and Publications (40-80): These charges are almost exclusively for legal books or subscriptions for online legal research. This line item also pays for our RealQuest property records subscription. The amount budgeted in FY 2020/21 was \$13,000, and most of this allocation will be spent. Staff recommend that the Board continue with the same allocation for FY 2021/22. **Total request = \$13,000**

Rental of Land/Buildings (50-10): This charge is to cover the costs of renting our office space on Center Street as well as any costs to keep the building open additional “after” hours once a week. In FY 2018/19 we renegotiated the lease and extended the lease term through February 29, 2024. The monthly rent has increased significantly under the current lease. At the beginning of fiscal year 2019 (July 2018) the monthly rent was \$20,423, and it increased to 27,916 as of March 1, 2019. This year our rent will average \$28,056 per month. Some this allocation is also available for rental of the Berkeley Unified School District Board Room to allow Board meeting to resume in person, if necessary, later this fiscal year. **Total request = \$375,000**

Postage (51-10): This line item covers the costs for all day-to-day operational mailing needs (Hearings and Admin units, VR mailings, exemption verification), all seasonal mailings (registration, ALRC notices), and also the costs for mailing postcards and newsletters to owners

and tenants. Since the Board anticipated sending fewer physical mailings this year the line item allocation was reduced to \$25,000. This projected reduction proved accurate until Measure MM passed in November of 2020. Through April, the agency has spent \$25,025, just over the total allocation for this fiscal year. Given the continued need for increased outreach to Measure MM units, staff recommend the Board increase this allocation by \$15,000. **Total request = \$40,000**

Messenger/Delivery (51-20): The majority of this line item reflects charges related to the delivery of agenda packages. Due to the continued use of Federal Express to deliver time-sensitive contract amendments packages, staff recommend an allocation for this line item be maintained at \$500 for FY 2021/22. **Total request = \$500**

Office Supplies (55-11): The agency has been able to reduce expenditures in this line item in each of the past several years after moving toward a paperless agenda system. Staff recommend maintaining the allocation for this item at \$13,500. **Total request = \$13,500**

Food and Water (55-50): Generally, when the Board has early or contiguous meetings (a closed session leading directly into a Board meeting) some food is provided. However, historically, the largest portion of this expenditure is for drinking water for staff and the public (per a long-standing Board resolution). Food for meetings hosted by the Board or staff is also reflected in this line item. Due to the COVID-19 pandemic staff project we will underspend on this item by \$1,000 this year and staff recommend reducing this allocation by \$1,000 for FY 2021/22. **Total request = \$1,000**

Office Equipment and Furniture (70-41): As of March, the agency had spent \$0 on this item, and staff project spending no more than \$1,000 for the entire FY 2020/21, given that many of the agency's staff have been working remotely due to the COVID-19 pandemic. Given the potential need to reconfigure office space to better allow for social distancing as more staff return to the office this fiscal year, the proposed budget recommends maintaining this allocation at \$5,000. **Total request = \$5,000**

Computers, Printer, Software (70-44): This line item is used for any additional computer or printer purchased, which is not part of the PC Replacement (75-25) below. Staff anticipate a need for additional laptops to facilitate remote and the purchase of multi-media monitors for all staff. **Total request = \$12,000**

PC Replacement Contribution/City Software Licenses (75-25): All of the agency's computers have an assumed life span, and they are rotated out at the end of that assumed cycle. The agency pays a fixed cost into a recurring fund based upon the number of computers we have and the estimated replacement cost. The City's IT Department also provides other hardware, including servers, and we have subscriptions to many citywide software licenses. There have been ongoing negotiations with the City's IT Department on what the Rent Board's recurring IT costs are. To this point the Rent Board has only agreed to pay for clear added costs that the City of Berkeley

incurs for our hardware and citywide software licenses used by agency staff. These costs have increased from \$50,709 in FY 2020/21 to \$74,305. **Total request = \$74,305⁵**

Mail Services (76-35): This is a charge from the City, assessed to all departments, to cover the cost of the employee who sorts and delivers the mail. The charge remains unchanged from FY 2019/20. **Total request = \$3,600**

City Vehicle / Fuel & Maint. (75-50): This charge is also from the City, assessed to the agency for the use of three off-street parking spaces used by Program staff. The charge remains the same for FY 2021/22. **Total request = \$1,500**

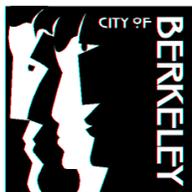
Capital Expenditures: Capital expenditures for the current year are projected to be around \$70,000 (\$395,500 under budget) by year-end. This is once again due to the expenditures related to the RTS database replacement project, as most of the \$400,000 in RTS database replacement expenditures have been deferred FY 2021/22 and FY 2022/23. For FY 2020/22, staff recommends setting aside \$60,000 for IT support for maintenance of the agency's existing software solutions and to support the transition to the system to replace the existing RTS database. For enhanced trainings and continued consultant support of the ongoing executive transition, an allocation of \$75,000 is recommended. As described previously, the proposed budget recommends allocating \$138,000 for the RTS replacement project and \$75,000 for costs related to the both scanning of property files from the agency's capital reserve. \$80,000 is also allocated to the tenant survey project and \$25,130 for website content rewrite. Almost all of these expenditures are for non-recurring costs. **Total request = \$453,130**

Annual Capital Reserve: The proposed budget recommends reducing the Board's capital reserve by \$213,000. Any amount not spent on these projects will revert to the Capital Reserve for future allocation. The annual capital reserve was created so the Board could set aside an annual amount for future capital expenditures. Given the Board's desire to avoid raising the full-covered registration fee as the economy recovers from the COVID-19 pandemic, staff do not recommend allocating additional funds to the capital reserve this year. The Board's capital reserve is projected to be no less than \$277,000 at the end of FY 2021/22. **Total Estimated Cost = \$0.**

Attachments:

1. May 6, 2021 staff report establishing annual registration fee levels and pass-through.
2. Proposed FY 2021/22 Line-Item Budget with 3/4th-year FY 2021 Update and Final Year-end FY 2020 actuals
3. Proposed FY 2021/22 Position Detail sorted by classification only
4. Proposed FY 2021/22 Position Detail grouped by unit, classification and job duty
5. Proposed FY 2021/22 Organization Chart sorted by division/supervision.
6. Resolution 21-13 authorizing FY 2021/22 Expenditure Authorization and Staffing Model

⁵ The City's IT Department also allocates personnel costs to all departments, which the Rent Board has not paid historically. Discussions with the City Manager and IT Department on the amount the Rent Board should contribute may increase this amount in future budget cycles.



Rent Stabilization Board

DATE: May 6, 2021

TO: Honorable Members of the Rent Stabilization Board

FROM: Matt Brown, Acting Executive Director
Lief Bursell, Senior Planner

SUBJECT: Recommendation to set the Fiscal Year 2021/22 Annual Registration Fee Including the Setting of an Initial Fee for Measure MM Units and to Authorize Pass-through of a Portion of the Registration Fee for Fully-controlled Units to Certain Tenants.

Recommendation

That the Board adopt four resolutions concerning the Fiscal Year (FY) 2021/22 annual registration fees:

Proposed Resolution 21-05 – adopting the annual registration fee, due July 1, 2021, at \$250 per unit for fully- covered units. This fee is calculated based on revenue necessary to cover costs of recurring operational and capital expenses for the services the program provides to fully controlled rental units.

Proposed Resolution 21-06 – adopting the annual registration fee, due July 1, 2021, at \$150 per unit for partially-covered Measure MM units. This fee is calculated based on the additional costs associated with implementing Measure MM registration and providing expanded services to the units in FY 2021/22 (\$100 per unit), and on the revenue required to cover the additional expenses associated with registering and providing services for partially covered units during FY 2020/21 (\$50 per unit).

Proposed Resolution 21-07 – adopting a lower \$37 per unit annual registration fee, due July 1, 2021, for Measure MM units in affordable housing projects that are managed by a non-profit and have an operative regulatory agreement with the City of Berkeley through its Housing Trust Fund program.

Proposed Resolution 21-09 –authorizes, with proper notice, the pass-through of up to \$10.00 per month to tenants where the tenancy began prior to January 1, 1999. The pass-through may be taken for 12 consecutive months. It cannot begin prior to July 1, 2020, and must terminate no later than December 31, 2022, unless extended by future Board action. The increase shall not result in a pass-through of greater than \$10.00 per month to any tenant. The Resolution also directs staff to continue a program/mechanism that allows low-income tenants with a household income of 50% or less of the Area Median Income (AMI) as calculated by HUD for the Oakland-Fremont, CA HUD FMR Area, or otherwise demonstrating proof of qualification as

low-income, to be reimbursed for the pass-through. Funds, totaling \$13,000, for the reimbursement would come from the AEPHI tenant overcharge settlement, which, pursuant to Board Regulation 1271(B), must be used for the benefit of low-income tenants.

Background and Need for Rent Stabilization Board Action

Legally, the Board has through the end of June to adopt a line-item budget and expenditure authorization level for FY 2021/22. In order to provide enough time to allow staff to print and mail the annual bill prior to the last week of May, however, the Board traditionally sets the fee at a meeting no later than early to mid-May. State law requires the Board to set a Public Hearing to get public input before it can increase the existing fee level.¹ The setting of the Measure MM fee² for FY 2021/22 is technically an increase because the Board has not yet set the fee level for these units.

The Budget & Personnel Committee has met five times in calendar year 2021 to review various aspects of the agency's budget and staffing model, and to formulate the appropriate recommendation for the FY 2021/22 registration fee levels. At their March 25, 2021 meeting, the Budget & Personnel Committee voted unanimously to recommend the Board set the FY 2021/22 registration fee at \$250 per unit for controlled rental units and at \$150 per unit fee for Measure MM units. Due to the added complications of implementing new registration processes for Measure MM units, the Budget & Personnel Committee recommend that the Board pass the FY 2021/22 registration fee as soon as possible in order to give staff additional time to prepare for the registration of this new universe of units.

At the Budget & Personnel Committee's April 27, 2021 meeting, the committee discussed the Measure MM fee requirements for rental units in various affordable housing projects that are subject to the new registration requirements of Measure MM. After discussion, the committee voted unanimously to recommend that the Board set a lower \$37 per unit fee for certain affordable housing projects funded by the City of Berkeley Housing Trust Fund.

Board members and Committees are also encouraged to submit any requests or suggestions for next year's budget over the next two weeks so that they may be reviewed by staff and the Budget and Personnel Committee in time for inclusion in the final FY 2021/22 budget recommendation.

Mid-Fiscal Year 2020/21 Budget Update

The Board's adopted budget anticipated collecting \$4,850,000 for the current fiscal year. As of March 31, 2021, the agency has collected \$4,912,831 and staff now project that annual revenue will come in closer to \$4,950,000. Additionally, actual mid-year expenditures were significantly lower than anticipated by the adopted budget.

¹ California Government Code Section 66016

² Adopted by Berkeley voters in the general election of November 2020, Measure MM requires the Board to set and collect a registration fee for a new subset of partially covered residential rental units – namely, rented single family homes, condominiums, and units that qualify as new construction under the Rent Ordinance. These units, particularly since the adoption of the Costa-Hawkins Rental Housing Act, have typically been exempt from the registration requirements of the Ordinance.

Decreases in actual expenditure levels are due to savings in several areas, most significantly from salary savings due to the unfilled permanent Executive Director position and the vacant Deputy Director position. Staff also project savings in capital expenditures related to the Rent Tracking System (RTS) replacement project because 3Di, the vendor developing the agency's new database and payment portal, agreed to delay and spread-out payments for the RTS replacement project over two fiscal years. Due to these savings, staff now project that total FY 2020/21 expenditures will be around \$800,000 less than what the Board authorized in the adopted budget.

The attached February 18, 2021 Mid-Fiscal year 2020/21 Budget Report provides more detail on the status of the Board's budget. Staff will prepare a 3rd Quarter budget update for review by the Budget & Personnel Committee at their May 27, 2021 meeting. The 3rd Quarter budget update will be provided to the Board at its next meeting, scheduled for June 17, 2021.

Measure MM Fee Level

Measure MM requires that the Board set a registration fee and imposes registration requirements on certain partially covered, rented single-family homes, condominiums, and units defined as new construction under B.M.C. Sections 13.76.040Q and 13.76.050I. Measure MM did not impose any local rent regulations on these units; they remain exempt from Berkeley's rent control provisions.

On December 17, 2020, the Board adopted Resolution 20-23, which defined the additional services the agency would provide to landlords and tenants of Measure MM units and established that there would be no charge for a registration fee for these rental units in FY 2020/21. The resolution further stated that any additional expenses associated with registering or providing services for Measure MM units during this fiscal year would be considered and potentially increase the registration fee for Measure MM units in FY 2021/22.

Considerations for Setting the FY 2021/22 Registration Fee

The Board will again have to balance the agency's need for revenue with the economic uncertainty faced by both property owners and tenants who are recovering from the COVID-19 pandemic. The Board may take the following information into consideration when deciding upon the appropriate levels for the FY 2021/22 registration fees.

Status of Uncommitted Reserve

Due to both increased revenue and reduced expenditures staff anticipate the Board will likely end the year with over \$700,000 in uncommitted reserve. This represents a 12% reserve and is sufficient to cover between 1-2 months of the program's projected expenditures.

Projected FY 2021/22 Expenditures

Assuming all positions in the current staffing model are filled, staff project the program will need about \$5,700,000 in revenue to cover expenditures in FY 2021/22. This is an increase of \$400,000 from the total projected expenditures in FY 2020/21. The need to increase expenditures is primarily to cover the added salary costs for the currently vacant permanent Executive Director and Deputy Director positions.

Number of Qualifying Measure MM Units

Rent Board staff initially identified around 5,000 units, mostly in newer, multi-family rental housing that are most likely to qualify for registration under Measure MM. The Measure MM registration process has thus far resulted in the approval of over 250 exemption requests and staff, through communications with property owners, have identified over 100 units from this group that do not qualify for registration under Measure MM. Given that there are still more exemption requests under review, it appears there will be closer to 4,000 rental units that qualify for Measure MM registration.

Staff has sent letters to an additional 4,400 properties (mostly single-family homes) that would qualify for registration if rented, but response rate has been slow, so the number of units from this group that will be required to register is still somewhat unknown. Given the present uncertainty around the number of qualifying units, staff recommends the Board base the Measure MM fee on the conservative assumption that just 4,000 units will meet the criteria for Measure MM registration in FY 2021/22.

Measure MM Unit Registration Compliance Rates

The Board will also adopt the registration fee and its operational budget for FY 2021/22 before it knows the overall compliance rate for the new Measure MM registration requirements. Staff anticipate a higher compliance rate for the larger multi-family properties. There are currently over 3,200 units in larger rental properties with 10 or more units that staff believe are subject the Measure MM registration requirements. For reference, the City of Richmond Rent Program's initial compliance rate for both partially covered and fully covered rental units was 61% in its first year of existence. Richmond's compliance rates then improved to 78% during its second year and all the way up to 93% in its third year.

Fee Calculation Options and Recommendation for Measure MM Units

In November of 2020, staff presented the City of Richmond Rent Program's fee structure as a possible model for calculating separate fee levels for both fully covered units and Measure MM units. Richmond's Rent Program calculates its fee structure by dividing the costs of their program into three distinct components: a general "program" component (55% of program costs), a "just cause" component (20% of program costs), and a "rent control" (25% of program costs).

Staff considered using an adapted version of this fee structure to calculate Berkeley's registration fees but ultimately concluded that there were still too many unknowns and that calculating a fee in this manner would require too much guess work. Once the Board knows the number of qualifying Measure MM units that register during the FY 2021/22 registration season, and has data points that will allow staff to breakdown the exact services the agency provides for Measure MM units, it will have the necessary inputs to make this type of fee calculation. Towards this purpose, staff has begun and will continue to track the number and types of services provided to measure MM units. At this time, staff recommends the Board adopt the Measure MM fee based only on the known costs for implementing the requirements and services associated with Measure MM units thus far.

Staff have been tracking both the hours and expenditures required for Measure MM implementation and the time dedicated to providing services to Measure MM units. Staff

calculate that the total cost of these efforts will be \$200,000 by the end of the current fiscal year. Since the bulk of Measure MM implementation work began in January of 2021, this \$200,000 only represents six months of costs. Assuming 4,000 qualifying Measure MM units, the Board would have had to set the Measure MM at \$100 per unit to cover these costs prorated over a full fiscal year. A \$100 per unit is 40% of the current \$250 fee for fully-covered units and staff believe that is an appropriate baseline for the Measure MM fee. The Board should note that Measure MM implementation is not complete and will continue throughout FY 2021/22.

Rent Board Resolution 20-23 states that any additional expenses associated with registering or providing services for partially covered units during this fiscal year shall be considered and potentially increase the registration fee for partially exempt units. In order to recover the total \$200,000 cost that the agency will spend on Measure MM implementation during FY 2020/21, the Measure MM fee would have to increase by an additional \$50 per unit (under the assumption that this fee will apply to a universe of 4,000 units). A base fee of \$100 per unit, and an additional \$50 fee to recover FY 2020/21 implementation costs, result in a recommendation to set the Measure MM fee at \$150 per unit for FY 2021/22.

Measure MM Fee for 100% Affordable Housing Projects

TW affordable housing service providers, Resources for Community Development (RCD) and Satellite Affordable Housing Associates (SAHA) submitted written letters to the Budget & Personnel Committee requesting an exemption from the Measure MM registration requirements for certain 100% affordable housing projects that they manage. Rent Stabilization Ordinance section 19.76.050.K exempts residential units owned by a non-profit organization that are rented to low income tenants and subject to a regulatory agreement with a governmental agency that controls their rent levels. While some of RCD's and SAHA's properties meet the criteria for this exemption, they also have hundreds of units in affordable housing projects that do not meet these criteria because they are *owned* by limited partnerships and *managed* by a non-profit.

For the properties in question, RCD and SAHA serve as the managing general partner and they claim they are otherwise similar to the affordable housing projects that qualify for exemption under the Ordinance. RCD and SAHA informed the Budget & Personnel Committee that this ownership structure this is the standard structure used for the Federal Low-Income Housing Tax Credit (LIHTC) program.

The Budget & Personnel Committee considered this issue at its April 27, 2021 meeting. The Committee heard testimony from both SAHA, RCD, the Berkeley Property Owner's Association, the Eviction Defense Center and the East Bay Community Law Center, and asked questions of staff related to the kinds of services the Rent Board provides to tenants in affordable housing projects. After discussion, the Budget & Personnel Committee ultimately decided that the agency provides valuable services to tenants of affordable housing units, including housing counseling and mediation, and that there should be a small fee to help pay for the costs associated with providing services to these units.

The Budget & Personnel Committee voted unanimously to recommend that the Board set a \$37 per unit registration fee for affordable housing projects that receive housing trust fund money. Similar to the Measure MM fee, the \$37 fee combines a \$25 per unit base fee to cover expenses in FY 2021/22, with an additional \$12 per unit fee to recover implementation costs incurred this

fiscal year.

Registration Unit staff estimate they are a total of approximately 500 affordable housing units that would qualify for the lower fee. Since these units are not part of the 4,000-unit universe that staff anticipate will qualify for full Measure MM unit registration, staff do not recommend making any adjustments to the full Measure MM fee if the Board decides to adopt a lower fee level for these affordable housing project units.

After consulting with staff in the Health, Housing and Community Service Department, Rent Board staff suggest that these units be defined as units in affordable housing projects that are managed by a non-profit and are within the regulatory period established by a regulatory agreement with the City of Berkeley through its Housing Trust Fund program.

The Budget & Personnel Committee requested that staff provide the Board with additional information on the number of client contacts and evictions notices received for units in these affordable housing projects. Staff will review agency records and endeavor to present this information to the Board during the meeting.

Balancing Available Reserve Against Economic Uncertainty

In prior years, the Board had committed to a strategy of increasing the registration fee in a “pay as you go” manner, raising it enough to meet budget commitments outlined for the upcoming fiscal year, while at the same time endeavoring to maintain a reserve of approximately 5%-8% of the operating budget. This strategy was adopted largely in response to property owners’ stated desire to accommodate operational inflation in smaller, real-time adjustments and avoiding exceptionally large registration fee increases in any given year.

In the previous year, however, the Board deviated from this plan in response to the COVID-19 pandemic. Last year, the Board elected to utilize a portion of the uncommitted reserve to cover anticipated expenses that would not be covered by revenue generated by the \$250 annual registration fee. The Board did this both because it anticipated decreased registration revenue due to the state of the rental housing market and in order to avoid raising the fee in a time of crisis and economic uncertainty. Utilizing the uncommitted reserve allowed the Board to maintain the annual registration at \$250 per unit even though it anticipated expenditures to exceed revenues last fiscal year. Since the uncommitted reserve is projected to be well above the historic 5%-8% level at the end of FY 2020/21, the Board has the ability to again use its existing surplus to avoid raising the annual registration fee at time when the economy, and the Berkeley rental housing market in particular, continues to recover from the impacts of the COVID-19 pandemic.

Registration fee revenue, somewhat surprisingly, was not significantly impacted by the COVID-19 pandemic during the FY 2020/21 registration period and the Board does not have any reason to anticipate a decline in the number of units paying the full registration fee in FY 2021/22. The proposal to use the Board’s reserve is therefore aimed at avoiding an increase to fees while the economy continues to recover. At this time next year, Berkeley’s rental housing market should be in a better position and the agency will have more information on Measure MM’s impact to both revenues and expenditures.

The Board has traditionally requested analysis of the impact of fee-based revenue when compared to increasing rents and changes in the Consumer Price Index (CPI) since 2009. May 2009 was selected as a comparison because the Board went several years without increasing the fees before adjusting it in four consecutive years between 2015 and 2018.

The following table shows the registration fee as a percentage of rent, which is probably the most relevant measure of the impact of any fee. The shaded area reflects a pre-vacancy decontrol program, while 1998 was a transition year from full rent control to decontrol. If the Board maintains the fee at \$250, it will be the lowest percentage of the average (mean) annual rent since the voters began electing Board members in 1984 and it is the first time the fee has ever been less than 1% of the annual average rent for controlled rental units.

Fees as a percentage of rent			
<u>Year</u>	<u>Fee</u>	<u>Mean Monthly Rent</u>	<u>% Annual Rent</u>
1984	\$60	\$267	1.87%
1987	\$80	\$293	2.28%
1989	\$100	\$328	2.54%
1991	\$136	\$361	3.14%
1998	\$112	\$720	1.30%
2000	\$124	\$865	1.19%
2005	\$154	\$1,062	1.21%
2010	\$194	\$1,274	1.27%
2014	\$194	\$1,498	1.08%
2015	\$213	\$1,606	1.11%
2016	\$234	\$1,637	1.12%
2017	\$270	\$1,710	1.32%
2018	\$250	\$1,816	1.15%
2019	\$250	\$1,956	1.07%
2020	\$250	\$2,039	1.02%
2021	\$250	\$2,110	0.99%

Pass-through of Increase in Registration Fee to Tenants

In 2003, the BPOA proposed changing the way the Annual General Adjustment (AGA) was calculated, shifting from a pass-through of actual cost increases to a flat formula based on a percentage of the CPI.

The Board approved of this formula, and in 2004, the voters approved of this change in how the AGA was calculated. Prior to the change in the AGA methodology, all increases in the registration fee between 1980 and 2005 were taken into consideration and incorporated in the Annual General Adjustment of rents.

Since the adoption of statewide vacancy decontrol in the late 1990s, rent levels have been set using two different standards. Under vacancy decontrol, owners are expected to consider past and anticipated future operating cost increases when setting the initial rent for a new tenancy.

Therefore, under the stated logic of vacancy decontrol, increases to the registration fee presumably have been factored into the rent charged a new tenant. Approximately 90% of the units have experienced at least one decontrol event since 1999. The Board has been extremely careful to guarantee that owners of the 10% of units never decontrolled continue to receive compensation for actual increased costs, such as adjustments to the registration fee. Since 2004, the Board has found that it would be fair and equitable, in view of the purposes of the Ordinance, to pass along to tenants a part or all of the increase in fees as a temporary adjustment of rent ceilings.

For several years, the Board approved a pass-through of up to \$4.00 per month to tenants where the tenancy began prior to January 1, 1999. In 2015, with the \$19-per-year increase in the registration fee, the amount of the pass-through was increased by \$2.00 per month for a new total pass-through of \$6.00 per month. In 2016, when the fee was raised by \$18, an additional \$2.00 per month was added, raising the monthly pass-through to \$8.00 per unit. In 2017, when the fee was increased by \$36, the pass-through was increased by an additional \$3.00 per unit, bringing the total monthly pass-through to \$11 per unit. Three years ago, the fee was lowered to \$10 per month to reflect the \$20-per-year decrease to the registration fee and it has remained at that level since then. This year, if the fee is maintained at the proposed \$250 per unit, the Budget & Personnel Committee believes it is appropriate to maintain the pass-through at \$10 a month. The proposed pass-through may be taken for 12 consecutive months and cannot begin prior to July 1, 2021, and must terminate no later than December 31, 2022, unless extended by future Board action. The change shall not result in a pass-through of greater than \$10.00 per month to any tenant. The pass-through must be on a form provided by the Board or use language provided by the Director, and a copy must be filed with the Program.

Mitigation of Impact of Pass-through for Low-Income Tenants

The last time the fee was increased, the Board discussed the impact that the pass-through of the fee could have on tenants on a fixed income, especially following the ongoing cuts in several state and federal programs assisting those most vulnerable in our society. Consequently, the Board adopted a resolution directing staff to develop a mechanism that allows low-income tenants with a household income of 40% or less of the Area Median Income (AMI) to be reimbursed for the pass-through. Funds for the reimbursement came from the AEPHI settlement. Pursuant to Board Regulation 1271(B), in the event of overcharges from a case in which a tenant has not claimed reimbursement within a year, the Board may designate a program of the City of Berkeley that benefits low- and/or moderate-income tenants. Because the AEPHI settlement was entirely from overcharges to tenants and did not include any registration fee, the Board elected to use this as a source to fund the mitigation of the pass-through. Since 2010, around 700 low-income individuals have taken advantage of this program and utilized around \$130,000 of the AEPHI Fund balance.

If the Board wishes to continue this mitigation, it will need to authorize an additional allocation from the AEPHI settlement account, which currently contains approximately \$61,000. The original \$18,000 allocation for the pass-through reimbursement program lasted over six years. As the registration fees have increased over the years, we have noticed two trends: More owners are taking the pass-through and more low-income tenants are requesting reimbursement. This trend

had continued unchanged until last year when there was a reduction in the number of both passthroughs and reimbursement requests. The COVID-19 pandemic likely contributed to the reduced number of passthroughs and reimbursement requests received this fiscal year. The following table, lists the totals from each of the past several years:

Year	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/21
Registration Fee Charged (amount of pass-through)	\$213 (\$6 per month)	\$234 (\$8 per month)	\$270 (\$11 per month)	\$250 (\$10 per month)	\$250 (\$10 per month)	\$250 (\$10 per month)
Number of Notices Property Owners Sent to Tenants	404	486	595	601	680	557 (YTD)
Number of Qualified Tenants Requesting Reimbursement	55	75	101	110	126	75 (YTD)

This year, the Program will spend roughly \$10,000 in additional allocation for reimbursements. Given the likelihood that number of requests the Program will receive will revert to pre-pandemic levels in FY 2021/22, staff estimate that that an additional allocation of \$13,000 is needed. The Budget & Personnel Committee recommend the Board continue the program and authorize the \$13,000 allocation for FY 2021/22.

In 2010, the Board also discussed the appropriate income level to qualify for the reimbursement program. Under federal guidelines, 50% of area median income (AMI) is considered “Very Low Income.” Previously, 30% of AMI was considered “Extremely Low Income”, but that definition has since been changed to be the greater of 30/50ths (60 percent) of the Section 8 very low-income limit. To our knowledge, there is no unique designation for 40% of the AMI. The household income by size of household for 30%, 40% and 50% of the AMI for Alameda County is listed below. According to HUD guidelines, the 2021 area median income for a household in Alameda County is \$125,600. The HUD guidelines were published on April 1st of 2021. The table below lists income standards for 1-8 person households calculated at 30%, 40% and 50% of the AMI, rounded to the nearest \$50 per HUD’s practice.

Income Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% AMI	\$26,400	\$30,150	\$33,950	\$37,700	\$40,700	\$43,750	\$46,750	\$49,750
40% AMI	\$35,150	\$40,200	\$45,200	\$50,240	\$54,250	\$58,300	\$62,300	\$66,300
50% AMI	\$43,950	\$50,250	\$56,500	\$62,800	\$74,000	\$79,500	\$84,950	\$90,450

In calculating the 50% AMI “Very Low Income” limit, HUD also includes “High Housing Cost Adjustment” for the Oakland-Fremont CA HUD Metro FMR Area. This increases the base 50% AMI income limit category for a family of four by \$5,700 or 9.1%.

HUD Income Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
50% AMI	\$47,900	\$54,800	\$61,650	\$68,500	\$74,000	\$79,500	\$84,950	\$90,450

In previous years, the Board established a standard that allows low-income tenants with a household income of 40% or less of the AMI to be reimbursed for the pass-through and it was not until FY 2018/19 the Board set the qualifying income at the higher 50% AMI level. In FY 2019/20, Staff and the Budget and Personnel Committee recommended that the mitigation pass-through for low-income tenants be adopted to match the HUD’s higher 50% AMI or “Very Low Income” limit, including the “High Housing Cost Adjustment” and to continue to allow individuals to demonstrate proof of qualification for reimbursement if they already have been determined eligible for another similar state or federal program, including but not limited to CalWorks, CalFresh, Medi-Cal, WIC or another program approved by the Executive Director. The Budget & Personnel Committee recommend the mitigation pass-through for low-income tenants be adopted with this standard again for FY 2021/22.

The Budget and Personnel Committee also recommend that reimbursement for the pass-through be limited to the current registration year, which is consistent with the Board’s practice for the past two years.

Please note that the registration fee pass-through and low-income tenant reimbursement programs are only applicable to controlled rental units and will not apply to Measure MM units.

Conclusion

The Budget & Personnel Committee recommends that the Board adopt resolutions to set the fee for fully covered units at \$250, the fee for partially covered units subject to Measure MM at \$150 per unit.³ The committee also recommend that the Board consider setting a lower \$37 fee for partially covered units subject to Measure MM that are in affordable housing projects that are managed by a non-profit and are within the regulatory period established in a regulatory agreement with the City of Berkeley through its Housing Trust Fund program

Finally, the Budget & Personnel Committee recommends that the Board adopt a resolution to authorize the registration passthrough and low-income tenant reimbursement program to

³ This would be the fourth year in a row that the fee for fully covered units would be set at \$250. Additionally, the \$150 fee for Measure MM rental units incorporates cost recovery for implementation of the Measure MM services and staff time spent during the current fiscal year.

continue in FY 2021/22, and to authorize an additional allocation of \$13,000 from the Board's AEPHI settlement account for this purpose.

Name and Telephone Number of Contact Person

Matt Brown, Acting Executive Director (510) 981-4905

Attachment – FY 2020/21 Mid-Fiscal Year Budget Report

**Rent Stabilization Program
FUND 440
Final FY 2020 Year-End, FY 2021 3/4 Year Budget Update & Proposed FY 2022**

Code	Description	Actual Year-End FY 2020	Adopted FY 2021	3/4ths Year FY 2021	Projected FY 2021	Proposed FY 2022
11-01	Monthly Employees	2,278,697	2,482,000	1,670,208	2,255,000	2,850,000
11-03	Hourly Employees	193,425	0	0	0	0
13-01	Overtime	4,149	5,000	477	1,000	2,000
27-20	Benefits	1,546,846	1,620,000	1,062,507	1,510,000	1,800,000
30-12	Stipends	51,200	53,500	38,350	53,500	53,500
30-23	Misc. Legal Expenses	121,372	360,000	225,670	260,000	20,000
30-36	Temp. Agency Employees	0	0	0	7,000	5,000
30-38	Misc. Professional Services	354,035	410,000	237,395	360,000	410,000
30-42	Office Equip. Mtc. Svcs. / Furniture	15,667	13,000	5,966	13,000	13,000
30-43	Bldg. & Structures Mtc. Svc.	340	400	291	400	500
30-51	Bank Credit Card Charges	17,519	25,000	6,528	20,000	25,000
40-10	Professional Dues & Intern Fees	2,779	3,000	2,060	3,000	3,000
40-31	Telephones	5,246	5,000	4,537	5,000	5,000
40-50	Printing and Binding	32,340	25,000	24,798	30,000	35,000
40-62	Meals & Lodging	0	1,000	0	1,000	1,000
40-63	Registration Fees/Training	0	12,000	0	10,000	12,000
40-61/64	Transportation & Commercial Travel	802	5,000	12	5,000	3,000
40-70	Advertising/public access	39,454	30,000	28,491	45,000	45,000
40-80	Books & Publications	11,138	13,000	9,847	13,000	13,000
50-10	Rental of Land / Buildings	345,261	355,000	249,660	355,000	375,000
51-10	Postage	43,236	25,000	25,075	35,000	40,000
51-20	Messenger / Delivery	201	500	0	500	500
55-11	Office Supplies	12,778	15,000	10,783	15,000	13,500
55-50	Food and Water	647	2,000	528	1,000	1,000
70-43	Office Equipment and Furniture	418	5,000	0	1,000	5,000
70-44	Computers, Printers, Software	2,464	10,000	2,568	5,000	12,000
75-25	PC Replacement/City Software Licences	0	50,709	38,034	50,709	74,305
75-35	Mail Services	3,600	3,600	2,700	3,600	3,600
75-50	City Vehicle / Fuel & Maint.	1,500	1,500	1,500	1,500	1,500
	Expenditure Subtotal**	5,085,112	5,531,209	3,647,985	5,060,209	5,822,405
	Special Projects (RTS Upgrade, online registration, training)	50,020	565,000	24,785	70,000	453,130
	Annual Capital Reserve		0	0	0	0
	Total Authorized Fund Expenditures*	5,130,732	6,096,209	3,669,770	5,130,209	6,275,535
	Total Authorized Fund Revenue*	5,055,139	4,850,000	4,912,917	4,950,000	5,515,850
	Annual Surplus/Shortfall	(75,593)	(1,246,209)	1,243,147	(180,209)	(759,685)
	FUND BALANCE (cash basis)	1,548,569	302,360	1,545,507	1,368,360	608,675
	FUND BALANCE (accrual basis)	1,548,569	302,360	1,545,507	1,368,360	608,675
	TOTAL UNCOMMITTED OPERATIONAL FUND BALANCE	1,048,569	267,360	1,510,507	878,360	331,675

* Note: this report only reflects charges & revenues against the Rent Board Fund (Fund 440) and does not include services charged to or received from other funds

** Note: variance in actual expenditures and total fund balance reflects remaining balance in reimbursement offset escrow

Rent Board Position Detail
Sorted by Classification

Classification Title	Adopted FY 20/21	Proposed FY 21/22
Accounting Office Specialist III	1.00	1.00
Associate Management Analyst	1.00	1.00
Associate Planner (Temporary)	1.00	0.50
Associate Planner	0.00	1.00
Community Service Specialist II	6.00	7.00*
Community Service Specialist III	0.80	0.80
Deputy Director	1.00	1.00
Executive Director	1.00	1.00
General Counsel	0.00	1.00
Office Specialist II	4.00	4.00
Office Specialist III	1.00	1.00
Legal Secretary	0.80	1.00
Senior Hearing Examiner	1.00	1.00
Senior Management Analyst	0.75	0.75
Senior Planner	1.00	1.00
Staff Attorney II	2.00	2.00
Staff Attorney III	1.00	0.00
TOTAL FTE:	23.35	25.05

Proposed Changes in FY 2022 include the following:

- Create a 1.0 FTE General Counsel
- Eliminate a 1.0 FTE Staff Attorney III
- Create a 1.0 FTE Associate Planner Position
- Reduce 1.0 FTE Temporary Associate Planner Position to 0.5 FTE

* Board approved addition of 1.0 FTE Community Services Specialist II on February 18, 2021

RENT BOARD POSITION DETAIL

Sorted by Unit, Classification and Job Assignment
Budget Code 11-01 (Monthly Employees) + 11-03 (Hourly Employees)

FY 2021 Adopted		FY 2022 Proposed	
Administration / Policy Unit		Administration / Policy Unit	
Executive Director	1.00	Executive Director	1.00
Deputy Director	1.00	Deputy Director	1.00
Community Services Specialist II	1.00	Community Services Specialist II	1.00
Associate Management Analyst	1.00	Associate Management Analyst	1.00
Senior Planner	0.70	Senior Planner	0.70
Associate Planner (Temporary)	1.00	Associate Planner (Temporary)	0.50
Associate Planner (Permanent)	0.00	Associate Planner (Permanent)	1.00
Office Specialist II	1.00	Office Specialist II	1.00
Subtotal for FTE	6.70	Subtotal for FTE	7.20
Salary/Benefit Total = \$1,250,000		Salary/Benefit Total = \$1,250,000	
Legal Unit		Legal Unit	
General Counsel	0.00	General Counsel	1.00
Staff Attorney III	1.00	Staff Attorney III	0.00
Staff Attorney II	1.60	Staff Attorney II	1.60
Legal Secretary	0.40	Legal Secretary	0.50
Subtotal for FTE	3.00	Subtotal for FTE	3.10
Salary/Benefit Total = \$600,000		Salary/Benefit Total = \$780,000	
Hearings Unit		Hearings Unit	
Senior Hearing Examiner	1.00	Senior Hearing Examiner	1.00
Staff Attorney II	0.20	Staff Attorney II	0.20
Legal Secretary	0.40	Legal Secretary	0.50
Subtotal for FTE	1.60	Subtotal for FTE	1.70
Salary/Benefit Total = \$415,000		Salary/Benefit Total = \$331,000	
Registration Unit		Registration Unit	
Senior Management Analyst	0.75	Senior Management Analyst	0.75
Community Services Specialist II	1.00	Community Services Specialist II	1.00
Accounting Office Specialist III	1.00	Accounting Office Specialist III	1.00
Office Specialist III	1.00	Office Specialist III	1.00
Office Specialist II	2.00	Office Specialist II	2.00
Senior Planner	0.15	Senior Planner	0.15
Staff Attorney II	0.10	Staff Attorney II	0.10
Subtotal for FTE	6.00	Subtotal for FTE	6.00
Salary/Benefit Total = \$882,000		Salary/Benefit Total = \$900,000	
Public Information Unit		Registration & Public Information Units	
Community Services Specialist III	0.80	Community Services Specialist III	0.80
Community Services Specialist II	4.00	Community Services Specialist II	5.00
Office Specialist II	1.00	Office Specialist II	1.00
Senior Planner	0.15	Senior Planner	0.15
Staff Attorney II	0.10	Staff Attorney II	0.10
Subtotal for FTE	6.05	Subtotal for FTE	7.05
Salary/Benefit Total = \$982,500		Salary/Benefit Total = \$1,160,000	
Total RSB Staff	23.35	Total RSB Staff	25.05

Board Approved Changes in FY 2021 include the following:

Eliminate a 1.0 FTE Staff Attorney I
Eliminate a 1.0 FTE Accounting Office Specialist II
Eliminate a 1.0 FTE Office Specialist II

Proposed Changes in FY 2022 include the following:

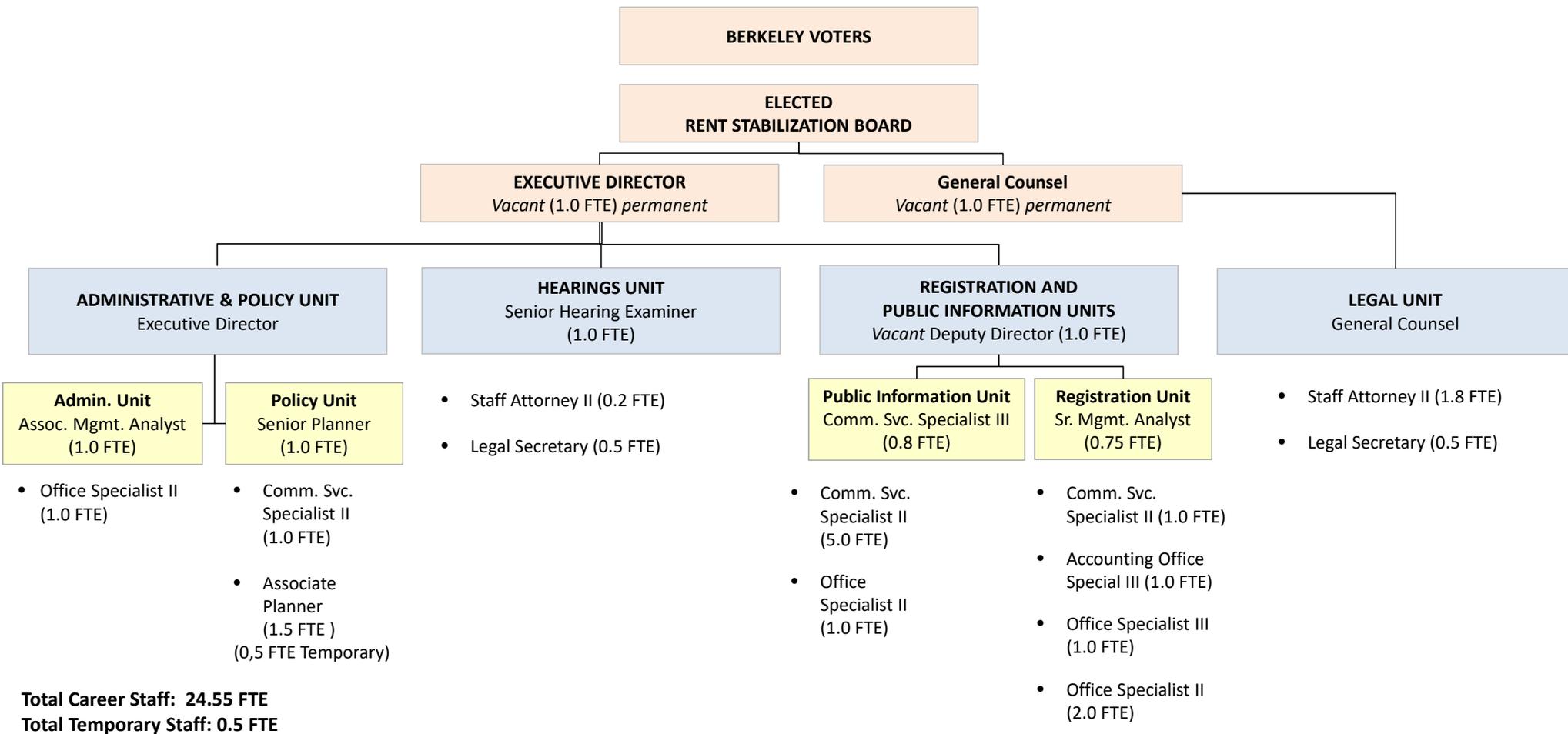
Create a 1.0 FTE General Counsel
Eliminate a 1.0 FTE Staff Attorney III
Create a 1.0 FTE Associate Planner Position
Reduce 1.0 FTE Temporary Associate Planner Position to 0.5 FTE
Increase 0.8 FTE Legal Secretary to 1.0 FTE

Proposed Berkeley Rent Stabilization Program 2021/22 Organization Chart*

Career and Temporary Positions FY 2021/22

Sorted by Division Supervision

*As Proposed by the Budget & Personnel Committee



RESOLUTION 21-13

**ADOPTING THE FISCAL YEAR 2021-2022 BUDGET, STAFFING MODEL POSITION
DETAIL AND THE MAXIMUM EXPENDITURE LEVEL**

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

WHEREAS, the Rent Stabilization Board operates on the basis of a fiscal year and each year adopts an operational budget after public review and input; and

WHEREAS, Section 123 of Article XVII of the Charter of the City of Berkeley provides that the Rent Stabilization Board shall finance its reasonable expenses by charging landlords annual registration fees in amounts deemed reasonable by the Board; and

WHEREAS, the Budget and Personnel Committee met twelve times in fiscal year 2020-21 to monitor the budget and the Program's progress meeting the goals established by the Board; and

WHEREAS, on May 6, 2021, after reviewing the available reserves and considering the economic stress caused by the global COVID-19 pandemic, the Board voted to maintain the annual registration fee for full-covered units at \$250 per unit and to set the Measure MM fee at \$150 per unit; and,

WHEREAS, on June 1, 2021, the Budget and Personnel Committee and the Acting Executive Director met and discussed a line-item operating budget and staffing model for FY 2022 for the Board's review and consideration; and,

WHEREAS, the proposed operating budget (including contracts) for FY 2021-2022 authorizes new expenditures totaling \$6,275,535, which includes both recurring operational and capital needs; and

WHEREAS, the proposed budget for FY 2021-2022 includes up to \$138,000 in previously authorized expenditures from the capital reserve for the creation of an integrated database solution to replace the Program's existing rent tracking and case management databases; and

WHEREAS, the proposed budget for FY 2021-2022 also includes up to \$75,000 in authorized expenditures from the capital reserve for scanning of the Rent Board's paper files; and

RESOLUTION 21-13

**ADOPTING THE FISCAL YEAR 2021-2022 BUDGET, STAFFING MODEL POSITION
DETAIL AND THE MAXIMUM EXPENDITURE LEVEL (Page 2)**

WHEREAS, after reviewing the current workload and filled positions along with the goals and objectives for FY 2021-2022 articulated by the Board, the Acting Executive Director and the Budget and Personnel Committee, the Board believes that it is necessary to maintain a staffing level of at least 24.55 career Full-Time Equivalent (FTE's); and,

WHEREAS, the Board completed a formal, mid-fiscal year budget review for the first time on February 18, 2021, and believes it is essential to make this formal, mid-fiscal year review a permanent part of its budget process going forward, in order to assess revenues, reserves, and the need for staffing model and/or programmatic changes;

NOW, THEREFORE, BE IT RESOLVED that an overall spending level totaling \$6,275,535 (\$5,817,405 in recurring operational and special projects, and \$213,000 in funding from the capital reserve) and a staffing level of 24.55 FTE's is hereby adopted for the Fiscal Year 2021-2022; and

BE IT FURTHER RESOLVED that the Board again intends to engage in a formal mid-fiscal year review and hopes to incorporate this as a permanent part of its budget process.

Dated: June 17, 2021

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

YES:
NO:
ABSTAIN:
ABSENT:

Leah Simon-Weisberg, Chair
Rent Stabilization Board

Attest: _____
Matt Brown, Acting Executive Director