

Rent Stabilization Board

May 14, 2021

Billi Romain

Manager, Office of Energy and Sustainable Development (OESD)

Katie Van Dyke

OESD Climate Action Program Manager/Chief Resilience Officer

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Berkeley, CA 94704

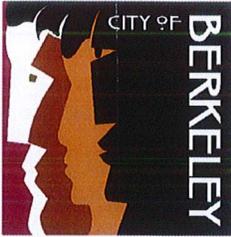
Dear Ms. Romain and Ms. Van Dyke:

The Berkeley Rent Stabilization Board appreciates this opportunity to provide comments on the Draft Existing Buildings Electrification Strategy. The presentation that your team provided at our recent Rent Board meeting was incredibly informative and inspiring. I commend the focus on equity, community input, and tenant impact. Electrifying older, rent-controlled buildings will be complex, and care must be taken to prevent a related escalation in rents and tenant displacement.

1. Berkeley rent control prevents unaffordable pass-through costs on rent controlled tenants but non-rent controlled units will remain unprotected.

The up-front costs of electrification are significant, and many rent-controlled buildings will need infrastructure and envelope upgrades as well. Such expenses will likely qualify as capital improvements under Rent Board Regulation 1267, but given that the Board uses a fair return analysis, most landlords will not qualify for a monetary pass-through. Capital improvements are amortized at 1%, but can only be passed through to existing tenants as a permanent rent increase if monthly vacancy rent increases for the building since January 1, 1999, are less than the eligible pass-through. It is rare, indeed, for most Berkeley rental property to qualify for capital improvement pass-throughs for buildings, since there has been such significant tenant turnover in the city since 1999. For example, if the landlord otherwise qualifies for \$200,000 in capital improvements, \$2000 would be eligible to be passed through. If the total monthly vacancy rent increases since January 1, 1999, for the property exceed \$2000 (a likely scenario), no pass-through is allowed.

Although capital improvement pass-throughs to existing tenants are rare, we are concerned that the costs of electrification will be passed on as vacancy rent increases that make Berkeley even less affordable, especially for lower-income persons, students, the elderly,



persons with disabilities, and historically marginalized populations. In some cases, smaller costs—like new cookware to accommodate induction stoves—will also fall on tenants. While electrification provides energy cost savings over time, many tenants, like our large student population, may not reside in a unit long enough to realize them in a meaningful way. And important but more abstract benefits like healthier air in units can be overshadowed by the immediate and concrete impacts even small rent increases can have on rent-burdened tenants. **We urge the City to secure all possible funding and subsidies, particularly for low-income landlords, to prevent the considerable upfront costs of electrification from being passed on to tenants as rent increases that contribute to Berkeley’s continuing affordability crisis.**

2. Tenant Protections in order to mitigate unsafe and disruptive impacts on tenants.

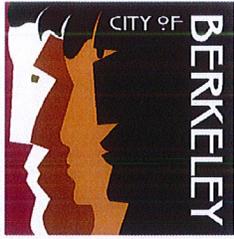
The prolonged construction related to infrastructure and envelope upgrades may result in disruptive and unsafe living conditions, and potentially permanent tenant displacement. It’s important that tenant protection measures are integrated, and have meaningful and accessible enforcement mechanisms. We wish to highlight efforts by the 4 x 4 Joint Committee on Housing—Rent Board & City Council that speak to this issue.

A. Habitability Plan Proposal

Modeled on the City of Los Angeles’ practice, we introduced [habitability plans](#) as a more holistic approach to tenant protection during construction. In Los Angeles, prior to the issuance of permits, owners must obtain approval of a plan that specifies the responsible contractor, affected tenants and their current rents, scope of work, the specific work to be undertaken, and the severity and potential duration of impacts to the tenants or their personal property. Owners must also specify mitigation measures so that tenants can either remain safely in place, or be temporarily relocated during construction. Mayor Arreguín and the other members of the 4 x 4 Committee are currently exploring the possibility of implementing a similar requirement in Berkeley.

B. Relocation Ordinance Amendments

Only landlords or the Building Official can trigger Berkeley’s existing Relocation Ordinance. The Committee has recommended that the Ordinance be amended to, amongst other things: allow a broader range of parties to trigger it, including tenants; strengthen enforcement and appeal mechanisms; and increase the per diem reimbursement rate to current market rates. The Committee also recommended that the City provide funding for



tenant relocation in the event the landlord refuses. Mayor Arreguín is convening a multi-department working group to consider amendments.

3. Monitor new laws.

Lastly, we encourage your support for the Tenant Opportunity to Purchase Act, and efforts aimed at increasing cooperative and nonprofit housing that reduce profit motives and help address split incentives. We also encourage you to monitor proposed state legislation like AB 1139 that would add significant costs to solar and undercut the feasibility of electrification.

Climate change is a critical issue, and we applaud the effort to electrify Berkeley's existing housing stock in a considered way to prevent unintended, harmful impacts. We are especially heartened by the equity guardrails, and the commitment to meet or exceed them before specific policies and programs are implemented. Electrifying Berkeley's rent-controlled housing stock poses special challenges. We look forward to working in partnership to find creative and innovative solutions for building a more sustainable and equitable community while continuing to protect the most vulnerable in our community from displacement.

Sincerely,

A handwritten signature in blue ink that reads "Leah Simon-Weisberg". The signature is written in a cursive, flowing style.

Leah Simon-Weisberg, Chair
Berkeley Rent Stabilization Board