



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: April 21, 2022
TO: Honorable Members of the Rent Stabilization Board
FROM: DeSeana Williams, Executive Director
BY: Basil Lecky, Community Service Specialist II
SUBJECT: Request for waiver of late registration penalties

Recommendation:

That the Board approve the attached recommendations.

Background and Need For Rent Stabilization Board Action:

The Board's penalty waiver process is governed by Regulations 883, 884 and 885. Regulation 883 lists the grounds for administrative waivers. In accordance with Regulation 884, the Executive Director reviews waiver requests that do not meet the criteria for an administrative waiver. Regulation 884 lists 12 categories, which will require a review of the totality of the circumstances by the full Board prior to granting any waiver request. Waivers that require a review of the totality of the circumstances are listed below as "Discretionary Waiver." If none of the 12 listed categories apply to the property, the waiver shall be granted/denied in a ministerial manner, based upon the formula outlined in Regulation 884(C). The Board may only alter these ministerial waivers if staff has incorrectly applied the criteria listed in Regulation 884 (B)(1-12).

Ministerial Waivers

In accordance with Regulation 884, the Executive Director reviews waiver requests that do not meet the criteria enumerated in Regulation 883. The following waiver request will be decided ministerially, unless the Board has reason to believe the underlying basis of the recommended assessment is inappropriate.

Waiver	Property Address	Owner	Penalty Assessed	Penalty Waived	Penalty Imposed
--	900 BANCROFT WAY	SUZY PAPANIKOLAS & M NICKEL	\$500	\$0.00	\$500
--	2016 9th ST	JUANA ALICIA ARAIZA	\$1,126	\$1,126	\$0.00
--	3028 DEAKIN ST	ASIF BATADA	\$750	\$750	\$0.00
--	1402/1398 CURTIS ST	JODI PINCUS	\$1,000	\$1,000	\$0.00
--	1909 9TH ST	YOOKSINE SUN	\$150	\$150	\$0.00
--	1301 BONITA AVE UNIT 1	THE EVINE 2004 TRUST	\$300	\$300	\$0.00
TOTAL			\$3,826	\$3,326	\$500

Financial Impact: Ministerial Waivers

Approval of Acting Executive Director's recommendations will decrease the Board's current accounts receivable by **\$3,326**.

Discretionary Waivers

For the waiver requests listed below, staff recommendations are attached and presented to the full Board for its approval. With respect to these cases, the determination of good cause to waive some or all of the penalties depends on the totality of the circumstances.

Waiver	Property Address	Owner	Penalty Assessed	Penalty Waived	Penalty Imposed
None	1513 WOOLSEY ST	LUKE MIRATRIX	\$600	\$600	\$0
5021	1235 CARRISON ST	HUIE CK LIM 1999 FAM TRUST	\$1,500	\$750	\$750
TOTAL			\$2,100	\$1,350	\$750

Financial Impact: Discretionary Waivers

Approval of Acting Executive Director's recommendations will decrease the Board's current accounts receivable by **\$1,350**.

Name and Telephone Number of Contact Person:

DeSeana Williams, Executive Director
 Rent Stabilization Board
 2125 Milvia Street, Berkeley, CA 94704
 (510) 981-7368

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: None	Property address: 1513 WOOLSEY ST	Transferred: None
Exempt units (as of February 2021): None		
Owner(s): LUKE & MARY MIRATRIX	Waiver filed by: LUKE MIRATRIX	# of Units: 5
Other Berkeley rental property owned: None		

Late payment/penalty history: The property comprises of five (5) Measure MM units, which are all currently being rented. The owner paid the registration fee November 7, 2021. The late payment for the 2021/2022 annual registration fee marks the first late payment on the owners account.

Penalties Currently Under Consideration

Reason for Penalties: Late payment of 2021/22 annual registration fee						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2021-22	5	\$600.00	11/07/2021	\$600.00	\$0.00	\$0.00
Totals				\$600.00	\$0.00	\$0.00

Grounds under Regulation 884(B): (11) The Executive Director, or his or her designee, recommends that the interests of justice require that a greater or lesser amount be waived

Good cause claimed by owner: When the Owner moved to Boston, MA for work, he decided to rent out his place in Berkeley since he hoped to return someday. Since then, the owner's previous co-owner also moved , and all the units became rented. The owner has been managing the units from afar and has been experiencing difficulties getting his mail for the property, which exacerbated when he moved in the middle of COVID. The owner states that his mail may have not been getting forwarded and the address change he submitted to the City did not reach all of the different agencies within the City government. The owner states that his mail often gets misplaced for a considerable time before it is given to him, which has been slower due to COVID. As a result of all this, the owner states that he did not receive any notices about Measure MM or the new rental unit fee unit recently. Once the owner received the notice, he immediately paid the fees and is now requesting a waiver of late registration penalties. The owner states that it is difficult to keep up with his property remotely. He stated that he received the notice in the last weeks of October, and opened his mail in November, just after the deadline for payment. The owner would appreciate any accommodation that could be made.

Recommendation: Staff recommends waiving the penalty in full

Staff Analysis: Staff empathizes with the challenges faced in the rental industry as a result of Covid-19 and understands his explanation regarding not knowing about the passing of Measure MM. This compels staff to recommend a full waiver of the penalty.

CITY OF BERKELEY
RENT STABILIZATION PROGRAM
2125 Milvia Street, Berkeley, CA 94704
PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://www.cityofberkeley.info/rent/>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 1513 Woolsey St, Berkeley, CA 94703

Owner: Luke Miratrix

Date of acquisition, if new owner: _____

Name & relationship of person filing request, if not owner: _____

If, after reading the information on Page 2, you believe that you are entitled to a waiver of some or all of your late registration penalties, use the space below to explain why. Attach evidence, where possible, to document an extenuating circumstance that prevented timely payment, such as hospitalization or death in the family. It is your responsibility to convince the Board that your waiver should be granted, so state all facts and circumstances that support your case. **Please print or type clearly.** Attach an additional sheet of paper if needed.

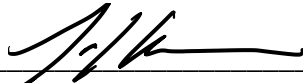
Hello. When I moved to Boston, MA, for work I decided to rent out my place in Berkeley since I hoped to return someday. Since then, my previous co-owner also moved, and all the units in the place are now rented, and I have been managing it from afar.

I have unfortunately had ongoing difficulties in getting mail regarding 1513 Woolsey St., and this was exacerbated when I moved last year in the middle of Covid. It appears as if not all of my mail was getting forwarded, and in particular, it looks like my address change I submitted to the City of Berkeley did not reach all of the different agencies within the city government (as best as I can tell). (Often my mail goes to the 1513 address, and then can get misplaced for considerable time before it gets given to me; this has also been slower due to Covid, I think, as everyone, including me, is not operating at their best.)

As a result of all of this, I did not receive any notices about Measure M or the new rental unit fee until very recently. Once I received this notice, I immediately paid the fees and am now writing this application for a waiver of the fine. I try to keep up my property in Berkeley, but sometimes it is difficult doing this remotely.

As is usually the case with these things, I received this piece of mail in the last weeks of October, sat down to open and deal with my mail in the first weeks of November, just after the deadline for payment. I would really appreciate any accommodation that could be made.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Date: Nov 11, 2021 **Signature:**  _____

The information entered below **must be clearly printed or typed** in order to receive the Executive Director's recommendation to the Rent Board on your penalty waiver request one week prior to the Board's consideration of your request at its monthly meeting. The recommendation will also include the date, time and location of the meeting should you choose to attend and address the Commissioners.

Email Address: lmiratrix@gmail.com

Mailing Address: 773 Broadway #2, Somerville MA 02144

Phone Number: 510-735-7635 **Fax Number:** _____

Please see Communications Disclaimer on Page 2 that applies to any personal information you provide.

Request for Waiver of Late Registration Penalties – Information

Please Read Before Completing the Waiver Request

Note: Before submitting a waiver request, you must pay all outstanding registration fees and file all registration forms

The penalties on your bill are owed under the law. The Rent Board **may** forgive some or all of the penalties when the late payment was not deliberate and the owner acts in “good faith.” Most waivers are processed by staff, based primarily on your past payment history (see Reg. 883*). But under certain circumstances (see Reg. 884*) the Rent Board will review a waiver request to determine what amount, if any, to forgive. In these discretionary reviews the Board is looking at “good cause” and the “totality of the circumstances” to determine an appropriate penalty.

Examples of good cause for a full or partial waiver of penalties include: • *you had a death or illness in the family* • *you are a new owner with no other Berkeley residential rental property* • *you didn't receive the original billing statement* • *you thought that the property or unit was exempt from registration* • *you didn't know about the requirement to pay a prorated registration fee on a previously exempt unit.*

Procedure for Discretionary Waivers: Staff will review your waiver request and make a recommendation to the Board. If a circumstance outlined in Regulation 884 applies, staff will send you a copy of the recommendation about a week before the Board meeting. You may submit a written response to the recommendation. The Board will review the staff recommendation and any response, and issue a decision. You are not required to, but may, attend and address the Board. Staff will mail you the Board's decision, which cannot be further appealed.

Full waiver is granted: The account is cleared, your eligibility for annual general adjustments (AGAs) is restored, and you are deemed in compliance from the date the waiver application was completed.

Partial waiver is granted: The denied amount **must** be resolved within 30 days or the waiver may be rescinded and the full amount of penalties reinstated. While any penalties remain outstanding, the property is considered not registered. This means, among other things, that you may not impose rent increases, may not evict tenants, and may be subject to tenant petitions for rent withholding.

For questions about waivers please call Allison Pretto at (510) 981-4904.

Communications Disclaimer:

This document will be included in the Rent Board's agenda packet and, as such, will become part of the City's electronic records, which are accessible through the City's website. This means that any e-mail addresses, names, addresses, and other information you provide will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, please call the Rent Board's Registration Unit at (510) 981-7368 to make that request.

* The referenced regulations can be found at:

https://www.cityofberkeley.info/Rent_Stabilization_Board/Home/Regulation_Chapter_8.aspx

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5021	Property address: 1235 CARRISON ST	Transferred: 09/14/2020
Exempt units (as of February 2021): Unit # 3 - OOC - Tenant		
Owner(s): HUIE C K LIM 1999 FAM TRUST	Waiver filed by: CHESTER HUIE	# of Units: 4
Other Berkeley rental property owned: None		

Late payment/penalty history: The property comprises of four (4) rented units, with one (1) of the units currently exempt. The current owner took ownership of the property in September 2020. They paid the fee March 16, 2021. This was the the owners first time owning a rent controlled property. The owner paid 2021/22 registration fee on time. The penalty is from late payment of 2020/21 registration fee.

Penalties Currently Under Consideration

Reason for Penalties: Late payment of 2020/21 annual registration fee						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
2020/21	3	\$750.00	03/16/2021	\$1,500.00	\$0.00	\$1,500.00
Totals				\$1,500.00	\$0.00	\$1,500.00

Grounds under Regulation 884(B): (7) The landlord requesting the waiver was not the owner of the property when the penalty first accrued

Good cause claimed by owner: The owner states that he did not realize that prior owner did not pay the registration fee to the Rent Board. He said he never received a copy of the billing statement from the Rent Board. The owner has since paid the registration fee of \$750 and states that the registration fee will be paid timely in the future.

Recommendation: Staff Recommends waiving 50% of penalty, or \$750 and imposing 50%, or \$750.

Staff Analysis: Staff notes that the owner did not reach out to the Rent Board upon transfer of the property in September 2020. Had the owner inquired with the City of Berkeley about their rights and responsibilities earlier, they probably could have avoided accruing the 2nd penalty. As a landlord in a rent control city, the owner has an obligation to know the registration requirements of the Rent Ordinance. Therefore, staff recommends waiving 50% of the penalty, which is the 2nd penalty that was assessed.

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Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 1235 CARRISON ST. BERKELEY CA 94702

Owner: CHESTER HUIE

Date of acquisition, if new owner: SEPT 14, 2020

Name & relationship of person filing request, if not owner: _____

If, after reading the information on Page 2, you believe that you are entitled to a waiver of some or all of your late registration penalties, use the space below to explain why. Attach evidence, where possible, to document an extenuating circumstance that prevented timely payment, such as hospitalization or death in the family. It is your responsibility to convince the Board that your waiver should be granted, so state all facts and circumstances that support your case. **Please print or type clearly.** Attach an additional sheet of paper if needed.

As the new owner of 1235 Carrison St, I (CHESTER HUIE) didn't realize the prior owner didn't pay the Rent Stabilization Program. I never recieved a copy of the rent stabilization program billin form. The rent stabilization is paid for current dues of \$750.00 and will be paid timely in the future.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Date: 3-11-2021 Signature: Chester Huiue

The information entered below **must be clearly printed or typed** in order to receive the Executive Director's recommendation to the Rent Board on your penalty waiver request one week prior to the Board's consideration of your request at its monthly meeting. The recommendation will also include the date, time and location of the meeting should you choose to attend and address the Commissioners.

Email Address: Chhuiue@AOL.COM

Mailing Address: 25 ROSSMOOR DRIVE, SAN FRANCISCO CA 94132

Phone Number: 415-377-8488

Fax Number: _____

Please see Communications Disclaimer on Page 2 that applies to any personal information you provide.