



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: March 16, 2023
TO: Honorable Members of the Rent Stabilization Board
FROM: DéSeana Williams, Executive Director
BY: Amanda Eberhart, Registration Unit Manager
SUBJECT: Request for waiver of late registration penalties

Recommendation:

That the Board approves 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. Please see the attached Ministerial Waiver Analysis and Recommendation for additional details.

Waiver	Property Address	Owner	Penalty Assessed	Penalty Waived	Penalty Imposed
	18 THE UPLANDS	JOHN HUNSAKER	600.00	600.00	
	2022 VIRGINIA ST	KEITH LEE & ELAINE LOU	1,750.00	1,750.00	
	2915 HARPER	TRUCKEE ZURICH PLACE LLC	132.00		132.00
	2124 PRINCE	ELLEN TRIMBERGER	250.00	137.50	112.50
	1032 CRAGMONT	VICTORIA & KARL LEIST	150.00	150.00	
	2614 WARRING	GITI BALOOCH	600.00	600.00	
	2237 ROOSEVELT	GIORA BEERI	1,000.00	800.00	200.00
	939 ADDISON	YASUKO IWAO	418.00	418.00	
	2117-2119 ASHBY	CHERUBA PRABAKAR & SANJAY JEYAKUMAR	1,000.00	800.00	200.00
	3014 COLLEGE	BENJAMIN LARRALDE	250.00	250.00	
	1455 GRIZZLY	STEVE SHAO	120.00	108.00	12.00
TOTAL			6,270.00	5,613.50	656.50

Financial Impact: Ministerial Waivers

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$5,613.50**.

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
W5075	2716 DURANT	MARK ETTEFAGH FAMILY TRUST	630.00	315.00	315.00
W5076	2443 SPAULDING	DEBORAH GARMON	600.00	600.00	
W5077	1300 DELAWARE	1300 DELAWARE/ TESSERACT CAPITAL	1,500.00	1,500.00	
W5078	1951 CHESTNUT	RUEGG & ELLSWORTH LLC	9,000.00	9,000.00	
TOTAL			11,730.00	11,415.00	315.00

Financial Impact: Discretionary Waivers

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$11,415.00**.

Name and Telephone Number of Contact Person:

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

Address	Details
18 THE UPLANDS	The Property located at <u>18 The Uplands</u> is a single-family home partially covered under Measure MM. The property has been owned by the current owners since 2018. The property owner states in their waiver that, “they were unaware of the passing of Measure MM”. A search of Rent Board Records will show the previous Registration Unit Manager had this property listed as a “no bill measure mm property”. Unfortunately, this property received no communication regarding Measure MM. Per Regulation 883 A-G, this property qualifies to have 100% of their penalties waived. Staff Recommends waiving 100% of the penalties.
2022 VIRGINIA ST	The property located at 2022 Virginia Street is a multi- residential property consisting of eight units. In the last five fiscal years the property owner has not made any late payments. A search of rent board records will show that the property owner made a payment July 7, 2022; staff processed that payment and closed registration the same day. Unfortunately, our new Rent Registry platform did not automatically recognize this payment fell within the Administrative Waiver period and charged the property an additional penalty. Per regulation 883 H, this property qualifies to have 100% of the penalty waived. Staff recommends waiting 100% of the penalty.
2915 HARPER	The multi-residential property located at <u>2915 Harper St</u> has been owned by the current owner since <u>March 2020</u> . In the last five fiscal years, the current owner has not made any late payments. Both the 20/21 and the 21/22 registration fees were paid on time. Prior to that, the property was owned by a different owner. In the waiver request submitted by the owner, the property owner is asking the rent board to waive their fees, “as they did not receive paperwork from BHA to complete registration”. The owners also state, “this was their first experience completing this form and they were unaware of registering the property”. Unfortunately, the statement provided by the property owner does not actually represent why penalties were charged to the account. Prior to the 22/23 registration cycle this property only had four units. In January of 2023 the rent board received a tenancy registration form to add an ADU to the property. The tenancy registration form noted that the move-in date for this unit was August 1st 2022. The Rent board ordinance requires Property Owners to update the rent board within 60 days of any change in status to the unit; which includes changes in tenancies. The property owner was charged prorated fees and penalties for the addition of the ADU that was not timely registered. Staff notes that the property owner has already paid the prorated fees and penalties associated with the unit. Staff recommends denying the penalty waiver.
2124 PRINCE	The <u>3 unit 2, 3 or 4 single family home</u> located at <u>2124 & 2124 ½ Prince St</u> has been owned by the current owner since <u>1985</u> . In the last five fiscal years the property owner has made 4 late payments in the 18/19, 20/21, 21/22 and the 22/23 registration cycles. The property owner states in their waiver that, “they paid the registration fee 12 days late”. The owner claims they were unable to pay the registration fee because they were in a lot of pain from a fall. The property owner did not submit any additional documentation that supported this claim. Rent Board records will show the property owner made a payment before the end of the Administrative waiver period. Per regulation 883 (H), This property qualifies to have 55% of the penalties waived. Staff recommends waiving 55% of the penalties.
1032 CRAGMONT	The single-family home located at <u>1032 Cragmont</u> has been owned by the current owner since <u>1998</u> . Prior to the passing of Measure MM, this property was exempt from the Registration Requirement. The owner states in their waiver that, “the first notice received was in December 2022 and would like their penalties waived after making a payment within four days of being made aware of the registration fee”. This statement contradicts Rent Board records. A search of Rent Board records will show this property owner paid the 21/22 Measure MM Registration fee before the July 1st deadline. In light of these records, and in accordance with Rent Board regulation 884 C, this property qualifies to have 100% of their penalties waived for the first late payment in five fiscal years. Staff recommends waving 100% of the penalties per the ordinance.

2614 WARRING	The Property located at <u>2614 Warring</u> is a single-family home partially covered under Measure MM. The property has been owned by the current owners since <u>2020</u> . The property owner states in their waiver that, “there was some confusion in who was paying the registration fees for this property after a trust was created for the deceased owner's son”. A search of Rent Board Records will show the previous Registration Unit Manager had this property listed as a “no bill measure mm property”. Unfortunately, this property received no communication regarding Measure MM. The first time the property registered was in November 2022. Per Regulation 883 A, this property qualifies to have 100% of their penalties waived. Staff Recommends waiving 100% of the penalties.
2237 ROOSEVELT	2237 Roosevelt has been owned by the current owner since <u>1993</u> . In the last five fiscal years, this property owner has only made one late payment in the 20/21 registration cycle. The owner states in their waiver that, “they tried to pay the registration fee online and it did not go through”. Per Regulation 884 C, this property qualifies to have 80% of the penalty waived. Staff recommends 80% of the penalty be waived.
939 ADDISON	The single-family home located at <u>939 Addison</u> has been owned by the current owner since <u>1991</u> . Prior to the passing of Measure MM, this property was exempt from the Registration Requirement under Costa Hawkins. The owner states in their waiver that, “they were unaware if their property was considered a duplex since they live in the basement with a low ceiling”. A search of Rent Board records will show this property was added to the Rent Registry Platform in December 2022. Unfortunately, this owner would not have been sent a 22/23 Registration Statement in May 2022. Rent Board regulation 883 D, this property qualifies to have 100% of their penalties waived. Staff recommends waving 100% of the penalties per the ordinance.
2117-2119 Ashby	The Property located at <u>2117-2119 Ashby</u> is a single-family home fully covered under the rent Ordinance. In the last five fiscal years this property has been owned by two different owners. The prior owner paid the fiscal year 17/18 and 18/19 registration cycles late. The current owner has paid the 19/20 and 22/23 registration cycle payments late. The owner states in their waiver that, “In January 2022 they moved from Berkeley to Oakland and set up mail forwarding for their property. Unfortunately not all of their mail was forwarded in a timely manner”. The owner also states that, “While picking up Christmas cards from their prior address, they found the registration statements that had been mailed”. The property owner is requesting that the penalties be waived. The registration requirement of the ordinance requires all property owners to update their records with the rent board. A search of rent board records will show that this owner did not update their address with the rent board. Our records will also show that since the 19/20 registration cycle, the property owner has sent the Rent Board checks to pay their registration fees or has made online payments through the rent registry portal. In the waiver signed under penalty of perjury by the owner, there was no mention of issues with other payment options offered by the Rent Board. Under regulation 884 C, this property qualifies to have 80% of their penalties removed for the second late payment on the account. Per Rent Board Ordinance 884 C, staff recommends waiving 80% of the penalties.
3014 College	The four-plex located at 3014 College has been owned by the current owner since <u>2019</u> . In the last five fiscal years, this property owner has not made any late registration payments. The owner states in their waiver that, “they have had issues with the mail and did not receive the statement”. Per Regulation 884 C, this property qualifies to have 100% of the penalty waived. Staff recommends 100% of the penalty be waived.

1455 Grizzly	The Property located at <u>1455 Grizzly</u> is a single-family home partially covered under Measure MM. The only statement the owner makes in their waiver is that, “They are new owners and this is their first time renting out property in Berkeley”. Unfortunately, the owner did not provide any additional documentation or provide a reason as to why the property was out of compliance with the registration requirement. Under regulation 883 I, this property qualifies to have 90% of their penalties removed for failure to register the property within two years of ownership. Per Rent Board Ordinance 883 I, staff recommends waiving 90% of the penalties.
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**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5075	Property address: 2718 DURANT AVE	Transferred: 06/21/2018
Exempt units (as of February 2021): Unit # UNIT A - RENTED - Owner		
Owner(s): MARK ETTEFAGH FAMILY	Waiver filed by: OWNER	# of Units: 2
Other Berkeley rental property owned: None		

Late payment/penalty history: In the last five fiscal years no late payments were received. This property was not subject to the Rent Registration Requirement as both units on the property were exempt.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Death of an Aunt

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2022-23	4	\$630.00	01/13/2023	\$630.00	\$0.00	\$630.00
Totals				\$630.00	\$0.00	\$630.00

Grounds under Regulation 884(B): (1) The good cause asserted in the waiver request is a death or illness in the landlord's family.

Good cause claimed by owner: The owner left to Iran to attend his aunt's funeral and unfortunately was stuck in Iran due to the political climate.

Recommendation: Staff recommends waiving 50% of the penalties

Staff Analysis: The 3 unit 2, 3 or 4 single family home located at 2716 and 2718 Durant Ave has been owned by the current owner since 2018. In the last five fiscal years no late payments were received. This property was not subject to the Rent Registration Requirement as both units on the property were exempt. A search of rent board records will show that in January 2023, the property owner notified the Rent Board that the units on the property were being rented. Rent Board records will show that the tenancy start date for all three units was August 15, 2022. The property owner was charged \$630 in prorated fees and penalties for failing to register the new tenancies within 60 days of the change in status on the property. The property

owner is asking the Board to waive their fees because, "in September 2022, the property owner went to Iran to attend a funeral and was unfortunately stuck in Iran due to the political climate." The owner also states in their waiver request that the "process for the rental slipped their mind". The Rent Board offers a variety of ways for property owners to submit payments and Vacancy Registration forms through the Rent Registry Portal, property owners have the option of mailing in documents. They can also email them directly to the Rent Registry email address or they can drop off documents for processing in our drop box located outside of our office. It is unclear to the Registration Manager why none of the avenues available to submit the required documentation to reduce penalties were taken advantage of.

BERKELEY RENT BOARD
RCVD '23 JAN 12 PM 11:37

W5078

Public
CITY OF BERKELEY
RENT STABILIZATION PROGRAM
2125 Milvia Street, Berkeley, CA 94704
PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://rentboard.berkeleyca.gov>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2716 A and B (2718) A and B Durant Berkeley, Ca 94704

Owner: Ettefagh properties partnership LP

Date of acquisition, if new owner: July 2018

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 the circumstances 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.

please see attachment

Dear Board,

I like to ask you to waive my late registration kindly due to reasons that were beyond my control:

I left for Iran on september 5th 2022 because of my eldest aunts death. As the first son of family, I had to attend the funeral rites and take care of her inheritance duties.

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

Date: Jan 10 2023 Signature: M Ettefagh

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: markettetfagh@gmail.com

Mailing Address: 6363 Christie Ave Apt 2817

Phone Number: 510 710 71 80 Fax Number: _____

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

Unfortunately, as everyone is aware, Iran's political turmoil with the women's movement, which soon proved to be a people's movement began very soon after my arrival in Tehran. The country was shutdown and I was not able to leave until late December 2022. I have lost months of work because of the political situation that caused me extensive delay as I could not get back to the U.S. to finish my work in a timely manner.

This rental property is my first in Berkeley, I have to admit I am new to the bylaws of Berkeley. Furthermore being caught in a family tragedy and then stuck for months in Iran had a toll on me as I witnessed young people being persecuted and some being executed!

This process for rental slipped my mind as I was coping with the difficult environment in Iran.

Finally, once I settled in Berkeley I began my work with the rental process accordingly.

I appreciate your time and ask you to please waive my case and the fees.

Best Regards

M Eftefagh

Mark Eftefagh

Jan 10 2023

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5076	Property address: 2443 SPAULDING AVE	Transferred: 02/14/1968
Exempt units (as of February 2021): None		
Owner(s): DEBORAH GARMON	Waiver filed by: OWNER	# of Units: 1
Other Berkeley rental property owned: None		

Late payment/penalty history: This is a Measure MM Property. There are not five years of payment history to review.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
FY2021-22	ALL	\$0.00	-	\$0.00	\$0.00	\$0.00
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Justice						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY 22/23	0	-	-	\$300.00	-	\$300.00
FY 21/22	0	-	-	\$300.00	-	\$300.00
Totals				\$600.00	\$0.00	\$600.00

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: The owner has been involved in an ongoing elder abuse case.

Recommendation: Staff recommends waiving 100% of the penalty fee.

Staff Analysis: The single family home located at 2443 Spaulding Ave has been owned by the current owner since 1968. Unfortunately, this owner is living between two locations due to an ongoing elder abuse case and missed the due date for the 22/23 registration cycle. The owner is asking the board to waive the penalties. Per regulation 884 (11), staff recommends waiving the penalties in the interest of justice.

\$ 600 Penalties

-300 CY
-300 PY

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RENT STABILIZATION PROGRAM
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Initial: W5070 Ag
Berkeley Rent Board

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2443 Spaulding Ave SFH

Owner: Deborah Garmon

Date of acquisition, if new owner: 2/14/1968

Name & relationship of person filing request, if not owner: 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 the circumstances 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.

I am living between two addresses because of an elderly abuse case. I also thought another amount I paid the city was all I owed.

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

Date: 11/5/2022 Signature: Deborah Garmon

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: msquad1221@gmail.com

Mailing Address: 3126 Beavert Ave Stockton CA 95209

Phone Number: 209 808 3518 Fax Number: _____

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

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5077	Property address: 1300 DELAWARE ST	Transferred: 07/31/2019
Exempt units (as of February 2021): Unit # 12 - MGTU - Rent Subsidized Tenant, Unit # 45 - MISC - Manager		
Owner(s): 1300 DELAWARE/ TESSERACT	Waiver filed by: PROPERTY MANAGER	# of Units: 43
Other Berkeley rental property owned: None		

Late payment/penalty history: This property was previously exempt. Unfortunately, there was not five fiscal years of data to review. In the last two fiscal years the property owner has not made any late payments.

Registration Date or Year	Units requiring registration at that time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Paid
-	-	-	-	-	-	-
Totals (penalties previously assessed)				\$0.00	\$0.00	\$0.00

Penalties Currently Under Consideration

Reason for Penalties: Justice						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY 22/23	0	-	-	\$1,500.00	-	\$1,500.00
Totals				\$1,500.00	\$0.00	\$1,500.00

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: COVID Hardship and staff delays

Recommendation: Staff recommends waiving 100% of the penalty fee.

Staff Analysis: The multi-residential property located at 1300 Delaware has been owned by the current owner since July 2019. Unfortunately, due to the owners timing of the purchase they would have most likely missed the notifications regarding registering the property during the 20/21 Registration cycles. Prior to the current owners, this property previously had a GTU exemption that did not require the property to register their 43 units. The new owners worked with the Rent Board to bring the account current; they submitted new VRs for each tenancy and paid the registration fees. Unfortunately, due to the previous exemptions, the Rent Registry platform calculated prorated fees and penalties on the account as if the property never registered

with the Rent Board since 1980. Staff applied the statute of limitation to the property to bring the penalties owed down as well. Historical Rent Board records will show the current owners submitted a prior waiver that was approved by the Board. Unfortunately, it is unclear at this time if those penalties were removed by the previous Registration Unit Manager. The property owners are asking the Rent Board to forgive the remaining penalties associated with the property exemption. Under regulation 884 B (11), Staff recommends waiving 100% of the penalties in the interest of Justice.

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APR 07 2022

Initial: _____
Berkeley Rent Board

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: 1300 Delaware St. Berkeley, CA 94702

Owner: 1300 Delaware LP - Tesseract Capital Group

Date of acquisition, if new owner: 7/31/2019

Name & relationship of person filing request, if not owner: William Chu - Partner of 1300 Delaware LP

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.

We are requesting for waiver of the late registration penalties for two primary reasons:

1) We are a new owner in Berkeley and our third-party property management company – Apartment Management Consultants, is also new to managing rentals in Berkeley. Thus, the registration fees for the units at 1300 Delaware St. were missed.

2) We have and are continuing to experience financial hardships due to the COVID-19 pandemic.

a. We were unable to finish the renovations of the property according to schedule of March, 2020. Due to the city-wide restrictions on construction activity, final completion was delayed until September 2020. We did not become over 90% occupied until December 2020.

b. Many of our current tenants are still experiencing financial difficulties. To date, we have been unable to collect nearly \$55k in rent due to tenants being affected by COVID. This includes three residents who have yet to pay rent for over 90 days and two who haven't paid over the last 60 days.

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

Date: 8/11/2021 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: Will@tcg.capital

Mailing Address: 2191 Market St. STE A, San Francisco, CA 94114

Phone Number: 510-813-0494 Fax Number: 415-233-4044

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