



DATE: March 16, 2023
TO: Honorable Members of the Rent Stabilization Board
FROM: DéSeana Williams, Executive Director
Lief Bursell, Senior Planner
SUBJECT: Recommendation to set the Fiscal Year 2023/24 Annual Registration Fees

Recommendation

That the Board adopts the following resolutions concerning the Fiscal Year (FY) 2023/24 annual registration fees:

Proposed Resolution 23-06 – adopting the annual registration fee, due July 3, 2023, at \$290 per unit for fully-covered units. This fee is calculated based on the revenue necessary to cover recurring operational and capital expenses for the program's services to fully controlled rental units.

Proposed Resolution 23-07 – adopting the annual registration fee, due July 3, 2023, at \$178 per unit for partially-covered Measure MM units.

This fee is calculated based on the revenue necessary to cover the expenses associated with registering and providing services for Measure MM units.

Proposed Resolution 23-08 – adopting a \$37 per unit annual registration fee, due July 3, 2023, for Measure MM units in affordable housing projects. This fee is calculated based on the revenue necessary to cover the expenses to register and provide services for Measure MM units associated with affordable housing projects managed by a non-profit and have an operative regulatory agreement with the City of Berkeley through its Housing Trust Fund program.

Background and Need for Rent Stabilization Board Action

Legally, the Board has until the end of June to adopt a line-item budget and expenditure authorization level for FY 2023/24. However, the Board traditionally sets the registration fee at a meeting sometime in April or May to provide enough time for staff to print and mail the annual bill in May. State law requires the Board to set a Public Hearing to garner public input before considering any increase to the existing fee level.¹ Setting the fee in March would allow staff the necessary time to prepare the annual bill mailing.

¹ See California Government Code Section 66016.

The Budget & Personnel Committee has met two (2) times thus far in calendar year 2023 to review various aspects of the agency's budget and staffing model and agree upon the appropriate recommendation for the FY 2022/23 registration fee levels. At their February 22, 2023 meeting, the Budget & Personnel Committee voted to recommend the Board increase the fully-covered registration fee from \$250 to \$290 per unit and the partially-covered Measure MM unit fee from \$150 to \$178 per unit. The Committee also recommends that the Board maintain the Measure MM fee for specific affordable housing projects funded by the City of Berkeley Housing Trust Fund at \$37 per unit.

Board members and Committees are encouraged to submit any requests or suggestions for next year's budget over the next month to be reviewed by staff and the Budget and Personnel Committee in time for inclusion in the final FY 2023/24 budget recommendation.

Fiscal Year 2022/23 Budget Update

The Board's adopted budget anticipated the agency collecting \$5,687,000 in revenue for the current fiscal year. As of December 31, 2022, the agency has collected \$5,686,913 and is on pace to exceed this amount. As of February 2, 2023, there were 243 delinquent fully-covered unit accounts and 311 delinquent partially-covered or Measure MM unit accounts that owed a total of 190,766 and 136,518, respectively, a total of \$327,284. Assuming the agency collects at least half the amount of these fees during the remainder of this fiscal year, the agency projects to collect around \$5,851,000 in revenue for FY 2022/23.

As of December 31, 2022, the Board has expended \$ 2,976,355. Actual mid-year expenditures are slightly less than anticipated in the Board's adopted budget. Personnel expenditures were below projections in the first half of the year due to the turnover of two Office Specialist positions and the vacant Policy Director position. When adjusting for these savings, staff project that total FY 2022/23 expenditures will be nearly \$200,000 less than the Board authorized in its adopted budget.

Staff will prepare the 3rd quarter budget update for review by the Budget & Personnel Committee in May. It will be provided to the Board at its June 15, 2023, meeting as an attachment to the Budget & Personnel Committee's FY 2023/24 budget recommendation.

Considerations for Setting the FY 2023/24 Registration Fees

The Board should consider the following information when considering the Budget & Personnel Committee's recommendations and determining the appropriate levels for the FY 2023/24 registration fees.

Closing Budget Deficit

The Board has elected a deficit spending strategy for the past four fiscal years to avoid increasing registration fee levels while landlords and tenants struggled with economic hardships stemming from the COVID-19 pandemic. The Board's adopted FY 2022/23 budget authorized deficit spending of up to \$925,000. While staff is currently projecting, the Board will only need to deficit spend by approximately \$400,000 this year. Operating in this manner is not sustainable on an ongoing basis.

Staff and the Budget & Personnel Committee are projecting a budget deficit of \$710,000 for FY 2023/24. The Board's uncommitted reserve does not have sufficient funding to absorb over

\$700,000 of deficit spending while maintaining the targeted 8%-16% reserve. Detailed information explaining the cost increases that have led to the Board's budget deficit is in the *Background Information and Data for Public Hearing on the FY 2023/24 Budget and Possible Increase in the Annual Registration Fee*, included separately in the Board's agenda packet.

Measured Fee Increase for FY 2023/24

The Board initially set the fully-covered registration fee at \$250 per unit for the FY 2018/19 registration period. Since then, inflation has increased by 15.8%, and the average rent in Berkeley has increased by 18.1% since December 31, 2022. Applying a 15.8% to 18.1% increase to the \$250 fee would result in a fee ranging from \$289 to \$297 per unit. Increasing the fee within this range would allow the Board's revenue to catch up with cost increases that have occurred since FY 2018/19 and, most importantly, close the projected budget deficit.

Expanding Staff Capacity

Currently, payroll, finance, and budgetary functions are ineffectively splintered between several work units. On October 20, 2022, the Board authorized the creation of a new Finance Manager position in the Administrative and Fiscal Manager classification tasked with creating a new Finance Unit within the Rent Board. The Finance Unit will handle all the agency's finance, budgetary, payroll, and contract functions. The City of Berkeley's Human Resources Department has finished recruiting a list of qualified candidates, and staff has begun interviews. Staff anticipates filling this position by May of 2023.

The Finance Manager will oversee operationalizing and supervising all budgetary, payroll, and finance. They will work with the Executive Director to create a new Rent Board Finance Unit that will also be responsible for contracting and purchasing activities. There will be supplemental information provided to the Board on the structure and composition of the Finance Unit after the Finance Manager is hired. The unit will require at least one additional full-time staff person, possibly in the Accounting Technician classification.

Possible Office Relocation

The agency's current lease with 2001 Center Street LLC will expire at the end of February 2024, and the Executive Director has begun the process of looking into potential new locations. Updates will be provided to the Board if any suitable sites are identified.

The size of the agency's current office space limits the Rent Board's ability to grow. There are no additional workspaces that aren't currently reserved for existing staff positions, and there is a severe lack of meeting space. The Executive Director hopes to identify a larger office space that gives the agency room to grow, provides for a better provision of on-site services, allows for a more inclusive work environment, and remains centrally located and easily accessible by transit.

Targeting a 16% Reserve

The Board has recently elected to adopt annual budgets that authorize a high level of deficit spending that relies on reducing the Board's uncommitted reserve to avoid registration fee increases while the rental housing market was still recovering from the economic impacts of the COVID-19 pandemic. In recent years the Board has authorized reducing the uncommitted reserve as low as 4%-6%, well below the Board's historical 8% to 16% reserve target. Staff and the Budget & Personnel Committee anticipate the Board will begin the FY 2022/23 fiscal year with over \$950,000 in uncommitted reserves. This reserve level represents just over 14% and

does not provide adequate resources to cover the program's recurring expenditures for two months. Staff and the Budget & Personnel Committee recommend that the Board target a 16% reserve and only reduce the uncommitted reserve below that level in extreme or emergency situations.

Returning to a “Pay as you go” Budget Strategy

Prior to the COVID-19 pandemic, the Board had committed to a budget 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 attempting to maintain an uncommitted reserve within the Board's targeted range. This adopted strategy responded to property owners' desire to accommodate operational inflation in smaller, real-time adjustments and avoid substantial registration fee increases in any given year. While the Board deviated from this strategy to prevent increasing the fee, it is a best practices strategy that produces a balanced budget and leaves the Board's reserve for its intended purpose. This approach should also result in more frequent but smaller future fee increases.

A "pay as you go" strategy produces a balanced budget because it necessitates that annual revenues are set at a level sufficient to cover recurring costs. If the Board believes its recurring costs will increase by \$100,000, then additional "new" revenue of \$100,000 should be identified. Under this strategy, the prior year's savings and/or a drawing down of the reserves should only be used for one-time or short-term expenses. Staff recommends the Board return to the "pay as you go" strategy once it addresses the current budget deficit and the uncommitted reserve is funded at the Board's target level.

The following table shows the registration fee as a percentage of the rent, which is the most relevant measure of the impact of any fee.

Fees as a percentage of rent			
Year	Fee	Mean Monthly Rent	% Annual Rent
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	\$2,100	0.99%

*Budget & Personnel Committee recommended fee level

2022	\$250	\$2,138	0.97%
2023	\$290*	\$2,154	1.12%

The shaded area reflects a pre-vacancy decontrol program, while 1998 transitioned from full rent control to decontrol. Mean monthly rent is calculated from the preceding calendar year, meaning the 2023 registration fee compares the fee with the average (mean) monthly rent in 2022.

If the Board increases the fully-covered fee to \$290, the fee will be 1.12% of the average (mean) annual rent for controlled rental units in Berkeley. Since the beginning of vacancy decontrol, the registration has mostly been in a range of 1%-1.30%, and 1.12% is in the middle to lower area of this range.

Conclusion

Staff and the Budget & Personnel Committee recommend that the Board adopt resolutions to set the fee for fully covered units at \$290 and for partially covered units subject to Measure MM at \$178 per unit. The Committee also recommends that the Board maintain the lower \$37 fee for partially covered units subject to Measure MM in affordable housing projects managed by a non-profit and within the regulatory period established in a regulatory agreement with the City of Berkeley through its Housing Trust Fund program.

Name and Telephone Number of Contact Person

DéSeana Williams, Executive Director (510) 981-6903

*Budget & Personnel Committee recommended fee level

RESOLUTION 23-06

SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR FULLY-COVERED UNITS; DUE JULY 3, 2023

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 an amount deemed reasonable by the Board; and

WHEREAS, the Executive Director and Rent Stabilization Board believe that new recurring annual revenues of at least \$6,800,000 in FY 2024 will be necessary to meet the Program's operating needs; and

WHEREAS, because of the ongoing housing crisis, demand for Rent Stabilization Program services has increased dramatically in recent years, including an estimated 40% to 60% increase over the past 9 years; and

WHEREAS, the Rent Stabilization Program has provided important services to tenants and landlords during the COVID-19 pandemic and relief effort; and

WHEREAS, the Board believes that, to the extent possible, the Program should continue to meet the needs of owners and tenants requesting our services and maintain a staffing level to allow that to happen; and

WHEREAS, inflation has increased approximately 50% and average rents of controlled units have increased by approximately 60% since 2009; and

WHEREAS, since 2009, the base annual registration fee has only been increased three times by a total of \$56; and

WHEREAS, the current fee of \$250 represents 0.97% of the average (mean) monthly rent for rental units regulated by the Berkeley Rent Stabilization Program; and

WHEREAS, in FY 2019 the Board adopted a fee of \$250, \$245 to cover necessary operational costs and \$5 dedicated to capital needs; and

WHEREAS, in FY 2020 the Board again adopted a fee of \$250, \$245 to cover necessary operational costs and \$5 dedicated to capital needs; and

RESOLUTION 23-06

SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR FULLY-COVERED UNITS; DUE JULY 3, 2023 (Page 2)

WHEREAS, in FY 2021, FY 2022, and FY 2023 the Board adopted a fee of \$250 to cover only necessary operational costs; and

WHEREAS, because of salary related savings and higher than increased revenue in FY 2023, the Board has an operational reserve balance of over 12% of annual operational expenditures; and

WHEREAS, the Board is targeting a higher operational reserve balance of 16% of annual operational expenditures for FY 2024; and

WHEREAS, to reach the revenue targets referenced above, an annual registration fee of \$290 per unit fee for fully covered units is required; and

WHEREAS, the Board will meet to consider and adopt a final budget document detailing the revenues, line-item expenditures and staffing model in June 2023.

NOW THEREFORE, BE IT RESOLVED that the annual FY 2024 registration fee for fully covered rental units, due July 3, 2023, is hereby set at \$290 per unit; and,

BE IT FURTHER RESOLVED that the Executive Director shall produce a final budget document detailing the revenues, total expenditure level (recurring and one-time costs) broken down in line-item detail, and staffing model for the Board's consideration and adoption at a scheduled meeting in June 2023.

Dated: March 16, 2023

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

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chairperson
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director

RESOLUTION 23-07

SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS; DUE JULY 3, 2023

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 an amount deemed reasonable by the Board; and

WHEREAS, the Acting Executive Director and Rent Stabilization Board believe that new recurring annual revenues of at least \$6,800,000 in FY 2024 will be necessary to meet the Program's operating needs; and

WHEREAS, Measure MM, which was placed on the general election ballot by the Berkeley City Council on July 30, 2020, and subsequently passed by the voters on November 3, 2020, now requires the Board to register certain partially covered rental units, including: rented single-family homes, condominiums, and newly-constructed units; and

WHEREAS, on December 17, 2020, by Resolution 20-17, the Rent Stabilization Board, approved the implementation of registration for partially covered units due to the amendments to the Rent Stabilization Ordinance mandated by Measure MM; and

WHEREAS, Resolution 20-17 established that the Rent Stabilization Board will not charge a Registration Fee for partially covered Measure MM units for the remainder of the FY 2020/2021; and

WHEREAS, Resolution 20-17 further resolved that any additional expenses associated with registering or providing services for partially covered units during the remainder of the current fiscal year shall be considered and potentially increase the Registration Fee for partially covered units for the 2021/2022 Fiscal Year; and

WHEREAS, Resolution 20-17 authorized Rent Stabilization Program staff to offer a number of services previously unavailable to tenants and landlords of partially covered units including, but not limited to mediation regarding a variety of different rental housing concerns and counseling regarding: evictions and security deposits, the Berkeley Emergency Response Ordinance, the local eviction moratorium (BMC Section 13.110), the state eviction moratorium (AB 3088), the statewide anti-rent-gouging law (AB 1482), the Tenant Buyout Ordinance, the Rental Housing Safety Program, and the Short-Term Rental Ordinance; and

RESOLUTION 23-07

SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS; DUE JULY 3, 2023 (Page 2)

WHEREAS, in FY 2022 the Board adopted a total fee of \$150, \$100 to cover the additional expenses associated with registering and providing services for partially covered Measure MM units during FY 2022, and \$50 to cover expenses associated with registering and providing services in FY 2021; and

WHEREAS, in FY 2023 the Board adopted a fee of \$150 to cover the expenses associated with registering and providing services for partially covered Measure MM units during FY 2023; and

WHEREAS, the Rent Stabilization Program has provided important services to tenants and landlords of partially covered Measure MM units during the COVID-19 pandemic and relief effort; and

WHEREAS, a little over 5,000 units have registered under Measure MM thus far in FY 2023; and

WHEREAS, the Executive Director and Rent Stabilization Board believe that \$912,000 in annual revenue will be necessary to register and provide services to Measure MM units in FY 2024; and

WHEREAS, the Board believes that, to the extent possible, the Program should continue to meet the needs of owners and tenants of partially covered Measure MM units that request our services and maintain a staffing level to allow that to happen; and

WHEREAS, to reach the revenue target referenced above, a \$178 per unit fee for partially covered Measure MM units is required; and

WHEREAS, the Board will meet to consider and adopt a final budget document detailing the revenues, line-item expenditures and staffing model in June 2023.

NOW THEREFORE, BE IT RESOLVED that the annual FY 2024 registration fee for partially covered Measure MM units, due July 3, 2023, is hereby set at \$178 per unit; and,

BE IT FURTHER RESOLVED that Rent Stabilization Program staff will continue to collect information on the impacts and expenses associated with registering and providing services for partially covered Measure MM units in FY 2024.

Dated: March 16, 2023

RESOLUTION 23-07

SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS; DUE JULY 3, 2023 (Page 3)

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

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chairperson
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director

RESOLUTION 23-08

SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED 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; DUE JULY 3, 2023

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 an amount deemed reasonable by the Board; and

WHEREAS, the Executive Director and Rent Stabilization Board believe that new recurring annual revenues of at least \$6,800,000 in FY 2024 will be necessary to meet the Program's operating needs; and

WHEREAS, Measure MM, which was placed on the general election ballot by the Berkeley City Council on July 30, 2020, and subsequently passed by the voters on November 3, 2020, now requires the Board to register certain partially covered rental units, including: rented single-family homes, condominiums, and newly-constructed units; and

WHEREAS, on December 17, 2020, by Resolution 20-17, the Rent Stabilization Board, approved the implementation of registration for partially covered units due to the amendments to the Rent Stabilization Ordinance mandated by Measure MM; and

WHEREAS, Resolution 20-17 established that the Rent Stabilization Board will not charge a Registration Fee for partially covered Measure MM units for the remainder of the FY 2021; and

WHEREAS, Resolution 20-17 further resolved that any additional expenses associated with registering or providing services for partially covered units during the remainder of the current fiscal year shall be considered and potentially increase the Registration Fee for partially covered units for the FY 2022; and

WHEREAS, Resolution 20-17 authorized Rent Stabilization Program staff to offer a number of services previously unavailable to tenants and landlords of partially covered units including, but not limited to mediation regarding a variety of different rental housing concerns and counseling regarding: evictions and security deposits, the Berkeley Emergency Response Ordinance, the local eviction moratorium (BMC Section 13.110), the state eviction moratorium (AB 3088), the statewide anti-rent-gouging law (AB 1482), the Tenant Buyout Ordinance, the Rental Housing Safety Program, and the Short-Term Rental Ordinance; and

RESOLUTION 23-08

SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED 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; DUE JULY 3, 2023 (Page 2)

WHEREAS, Board staff will be able to provide tenants in these affordable housing units some, but not all, services it provides to other partially covered Measure MM tenants; and

WHEREAS, rental units in certain affordable housing project projects that are managed by a non-profit do not qualify for an exemption from registration under MM per Rent Stabilization Ordinance section 19.76.050.K; and

WHEREAS, the Rent Stabilization Program provides important services to these tenants, including counseling of low-income tenants in these units; and

WHEREAS, the Rent Stabilization Board's mediation program is available to tenants, property owners, and the non-profit managers with these units; and

WHEREAS, there are costs associated with providing the above referenced services to these units; and

WHEREAS, in FY 2022 the Board adopted a total fee of \$37, \$25 to cover the expenses associated with registering and providing services for these partially covered Measure MM units during FY 2022, and \$12 to cover expenses associated with registering and providing these services in FY 2021; and

WHEREAS, in FY 2023 the Board adopted a fee of \$37 per unit to cover the expenses associated with the registering and providing services for these partially covered Measure MM units during FY 2023; and

WHEREAS, the Rent Stabilization Board does not want to overburden affordable housing service providers with increasing fees given that they do not operate for a profit; and

WHEREAS, the approximately 600 units in affordable housing projects have registered under Measure MM thus far in FY 2023; and

WHEREAS, the Rent Stabilization Program has provided important services to tenants and landlords of partially covered Measure MM units during the COVID-19 pandemic and relief effort; and

RESOLUTION 23-08

SETTING THE FISCAL YEAR 2023/2024 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED 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; DUE JULY 3, 2023 (Page 3)

WHEREAS, the Board believes that, to the extent possible, the Program should continue to meet the needs of owners and tenants of Measure MM units, including units in affordable housing projects, that request our services and maintain a staffing level to allow that to happen; and

WHEREAS, to reach the revenue target referenced above, a \$37 per unit fee for partially covered Measure MM units is required for FY 2024; and

WHEREAS, the Board will meet to consider and adopt a final budget document detailing the revenues, line-item expenditures and staffing model in June of 2023

NOW THEREFORE, BE IT RESOLVED that the annual FY 2024 registration fee, due July 3, 2023, for partially covered Measure MM units owned by a limited partnership and having a managing general partner that qualifies as a 501(c)(3) non-profit organization that are in a housing project within the regulatory period established by a regulatory agreement with the City of Berkeley through its Housing Trust Fund program.

BE IT FURTHER RESOLVED that Rent Stabilization Program staff collect information on the impacts and expenses associated with registering and providing services for partially covered Measure MM units in affordable housing projects in FY 2024.

Dated: March 16, 2023

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

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chairperson
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director