



Rent Stabilization Board

DATE: March 20, 2025

TO: Honorable Members of the Rent Stabilization Board

FROM: Honorable Members of the Budget & Personnel Committee
By: DéSeana Williams, Executive Director
Matt Brown, General Counsel

SUBJECT: Discussion and possible action regarding whether to adopt proposed Resolution 25-06 which would allow landlords to pass through a portion of the Fiscal Year 2025/2026 Registration Fee to certain tenants

The Rent Ordinance authorizes the Board to approve passing a portion of the annual registration fee to tenants as a rent adjustment.¹ Since 2010 the Board has allowed landlords who still have very long-term tenancies (pre-1999) to pass through a portion of their registration fees for those rental units, since they have not had the opportunity to raise the rents pursuant to market pursuant to what the Costa-Hawkins Rental Housing Act allows. The Board has mitigated any financial hardships to low income tenant households by reimbursing this temporary rent increase using the AEPHI Lawsuit Settlement Fund. This fund is almost completely empty, so there is no way to reimburse these tenants moving forward.

At its March 11, 2025 meeting, the Budget & Personnel Committee decided it would not make a recommendation on whether the Board should continue to allow landlords to pass through a portion of the registration fee to very long-term tenants given that the reimbursement option for low-income tenants is no longer available. Instead of a recommendation, the committee voted to send this item to the Board for discussion.

Should the Board decide to pass through a portion of the Fiscal Year 2025/2026 registration fee to certain tenants, it will adopt proposed Resolution 25-06. Should the Board decide not to adopt this resolution, landlords will not be able to pass through a portion of the registration fee to any tenants.²

Name and Telephone Number of Contact Person

DéSeana Williams, Executive Director (510) 981-7368

¹ Berkeley Municipal Code Sections 13.76.060N. and 13.76.080L.

² The Rent Ordinance requires the Board to take affirmative action in order to pass any portion of the registration fee on to tenants, so if the Board does not pass a resolution authorizing it, landlords will not be able to pass any portion of the fee on to tenants.

RESOLUTION 25-06

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF THE FISCAL YEAR (FY) 2025/26 REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS

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 Executive Director and Rent Stabilization Board believe that recurring annual revenue of \$8,462,000 in FY 2025/26 will be necessary to meet the Program's operating and capital needs and it will require an annual registration fee of \$344 per unit for fully covered units \$212 for partially covered Measure MM units; and

WHEREAS, BMC Sections 13.76.060N. and 13.76.080L. of the Rent Stabilization Ordinance authorize the Rent Board to approve passing a portion of annual registration fees along to tenants as a rent adjustment; and

WHEREAS, prior to the voters changing the way in which the Annual General Adjustment (AGA) was calculated effective in 2005, the Board passed along to tenants all increases in the registration fees as one of the components of the AGA; and

WHEREAS, with the voter-approved change in how the AGA is calculated, the Board is no longer allowed to include new increases to the registration fee as part of the AGA, but only as a pass-through adopted and extended each year; and

WHEREAS, the Rent Stabilization Board consistently found that it would be fair and equitable in view of the purposes of the Rent Ordinance to pass along to tenants part or all of the increase in the registration fee as a temporary adjustment of rent ceilings; and

WHEREAS, under vacancy decontrol, owners are expected to consider past and anticipated future operating cost increases when setting the initial rent for a new tenancy, and therefore, increases to the registration fee presumably have been factored into the rent charged; and

WHEREAS, under 10% of the rental units in the City have a tenancy that began prior to January 1, 1999, when vacancy decontrol was fully implemented; and

RESOLUTION 25-06

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF THE FISCAL YEAR (FY) 2025/26 REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS (Page 2)

WHEREAS, the Board has attempted to guarantee that owners of these non-decontrolled rental units continue to receive a pass-through for increased costs to the registration fee; and

WHEREAS, the Rent Stabilization Board finds that it would be fair and equitable in view of the purposes of the Rent Stabilization Ordinance to continue to pass along to certain tenants a portion of the 2025 registration fee as a temporary adjustment of rent ceilings;

WHEREAS, the Board also understands and wishes to mitigate the financial hardships experienced by tenants at 50% or less of Area Median Income (AMI) as calculated by the Department of Housing and Urban Development (HUD) for the Oakland-Fremont, CA HUD FMR Area, or otherwise receiving certain forms of income-qualifying assistance, who have to pay the pass-through; and

WHEREAS, the Board has very limited unclaimed overcharge money available in the AEPHI Lawsuit Settlement Fund designated under Regulation 1271(B) for programs that benefit low- and/or moderate-income tenants but the AEPHI Lawsuit Settlement Fund; and

WHEREAS, funding for reimbursements authorized in years past is projected to be exhausted by the end of the current calendar year.

NOW THEREFORE, BE IT RESOLVED that for each rental unit in which the tenancy began prior to January 1, 1999, for which a full registration fee is paid for Fiscal Year 2025/26, the landlord may, by serving legal notice pursuant to California Civil Code section 827, increase the rent by up to \$14.00 a month for twelve consecutive months, provided, however, that this partial registration fee pass-through shall not be considered part of the permanent rent ceiling for purposes of calculating the 2026 Annual General Adjustment; and

BE IT FURTHER RESOLVED that this twelve-month temporary general adjustment of up to \$14.00 may not be imposed prior to July 1, 2025, and, regardless of when first collected, shall terminate no later than December 31, 2026; and

BE IT FURTHER RESOLVED that the maximum increase shall not result in a pass-through greater than \$14.00 per month, and notice to tenants of any pass-through shall be on a form provided by the Board or use language approved by the Executive Director; and

BE IT FURTHER RESOLVED that the landlord shall be required to submit a copy of the above-referenced form to the Rent Board before collecting the pass-through; and

RESOLUTION 25-06

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF THE FISCAL YEAR (FY) 2025/26 REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS (Page 3)

Dated: March 20, 2025

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

YES:

NO:

ABSTAIN:

ABSENT:

Soli Alpert, Chairperson
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director