



DATE: March 21, 2024  
TO: Honorable Members of the Rent Stabilization Board  
FROM: DéSeana Williams, Executive Director  
Shamika Cole, Finance Director  
SUBJECT: Recommendation to set the Fiscal Year 2024/25 Annual Registration Fees

### **Recommendation**

That the Board adopts the following resolutions concerning the Fiscal Year (FY) 2024/25 annual registration fees:

**Proposed Resolution 24-05** – adopting the annual registration fee, due July 1, 2024, at \$342 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 24-06** – adopting the annual registration fee, due July 1, 2024, at \$211 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 24-07** – adopting a \$53 per unit annual registration fee, due July 1, 2024, 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.

**Proposed Resolution 24-08** – adopting a \$96 per unit annual registration fee, due July 1, 2024, for Summer Fraternity and Sorority units. This fee is calculated based on the revenue necessary to cover program expenses associated with registering and providing services for Summer Fraternity and Sorority Units.

### **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 2024/25. At its March 7, 2024 meeting the Budget & Personnel Committee passed a motion to recommend the Board increase the registration fee and set a public hearing to consider the fee increase at its March 21, 2024 meeting. State law requires the Board to set a Public Hearing to garner public input before considering any

increase to the existing fee level.<sup>1</sup>

The Budget & Personnel Committee has met two (2) times thus far in calendar year 2024 to review various aspects of the agency's budget and staffing model and agree upon the appropriate recommendation for the FY 2024/25 registration fee levels. At their March 7, 2024 meeting, the Budget & Personnel Committee voted to recommend the Board increase the fully-covered registration fee from \$290 to \$342 per unit and the partially-covered Measure MM unit fee from \$178 to \$211 per unit. The Committee also recommends that the Board increase the Measure MM fee for specific affordable housing projects funded by the City of Berkeley Housing Trust Fund from \$37 to \$53 per unit and the Summer Fraternity and Sorority fee from \$70 to \$96.

To consider an increase in the registration fee, the Board must adhere to California Government Code Section 66016, which stipulates holding a public hearing regarding the proposed fee increase. Additionally, the Board must, at least 14 days prior to the meeting, furnish the public with information regarding the actual or estimated costs necessary to deliver the services for which the fee or service charge is imposed, along with the expected revenue sources for covering these services. This report contains the data mandated by Gov. Code Section 66016.

### **Fiscal Year 2023/24 Budget Update**

The Board's adopted budget anticipated the agency collecting \$6,965,000 in revenue for the current fiscal year. As of December 31, 2023, the agency has collected \$6,198,879 and is on pace to exceed this amount. As of December 31, 2023, there were 222 fully-covered properties and 3,009 partially-covered or Measure MM properties that still owed a total of \$193,748 and \$630,055, respectively, a total of \$823,803 for the current registration year. Assuming the agency collects fees owed during the remainder of this fiscal year, it projects to collect most of its projected revenue for FY 2023/24.

As of December 31, 2023, the Board has expended \$3,321,869. Actual mid-year expenditures are slightly less than anticipated in the Board's adopted budget. Personnel expenditures were below what was projected in the 1st half of the year due to the turnover of an Office Specialist position, two vacant Community Services Specialist II positions, an Accounting Office Specialist III position, and an Assistant Management Analyst position. When adjusting for these savings, staff project that total FY 2023/24 expenditures will be around \$400,000 **less** than the Board authorized in the adopted budget.

Despite the anticipated salary savings, Staff and the Budget & Personnel Committee project to end the year with a budget deficit.

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 20, 2024, meeting as an attachment to the Budget & Personnel Committee's FY 2024/25 budget recommendation.

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 2024/25 budget recommendation.

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<sup>1</sup> See California Government Code Section 66016.

**Considerations for Setting the FY 2024/25 Registration Fees**

The Board should consider the following information when reviewing the Budget & Personnel Committee's recommendations and determining the appropriate levels for the FY 2024/25 registration fees.

***Closing Budget Deficit***

The Board has elected a deficit spending strategy for the past five fiscal years to avoid increasing registration fees while landlords and tenants struggled with economic hardships stemming from the COVID-19 pandemic. A combination of higher-than-anticipated revenues and salary savings due to both increased staff turnover and vacant positions resulted in a much lower rate of deficit spending in FY 2020/21.

The table below compares the Board’s adopted budget with actual revenues and expenditures for the last five fiscal years.

Historical Budget Surplus/Deficit Comparison					
FY Surplus/Deficit	2019/20	2020/21	2021/22	2022/23	2023/24
Adopted	\$ (810,000)	\$ (1,246,209)	\$(759,685)	\$ (1,010,755)	\$ (541,285)
Actual	\$ (75,593)	\$ (58,252)	\$ 361,929	\$ (277,106)	\$ (330,819)*

\*projected

The Board's adopted FY 2023/24 budget authorized deficit spending of up to \$541,285. Staff and the Budget & Personnel Committee are projecting a budget deficit of \$331,000 for FY 2024/25 if registration fee levels remain the same. The Board's uncommitted reserve does not have sufficient funding to absorb over \$300,000 of deficit spending, maintain its current recurring expenditures, and remain within the targeted 16% reserve level.

After reviewing the mid-fiscal year budget update, Staff and the Budget & Personnel Committee have focused the majority of their time on understanding the Board’s current year budget deficit, projected budget deficit, discussing the best path forward to close the budget deficit, and exploring strategies that can put the agency on a path where it can both increase capacity and maintain a balanced budget into the future.

***Recommended Fee Increase for FY 2024/25***

The Board established the fully-covered registration fee at \$290 per unit for the FY 2023/24 registration period. However, there have been significant changes in the economic landscape since that decision. Inflation rates have surged, and the average rent in Berkeley has increased by 4.5% since December 31, 2022.

During recommendation discussions with the Budget and Personnel Committee, staff informed that an increase in the fee, ranging from \$310\* to \$344, would result in just 1.15% to 1.27% of

\* A fully covered fee increase to \$310 is necessary to cover existing recurring expenditures the current average rent in Berkeley. Furthermore, increasing the fee would help the Board's revenue keep pace with the rising program costs and ensure that we stay within the targeted 16%

reserve level. In FY 2024/25, the Board must increase the fee by at least \$310 to ensure we can adequately cover recurring expenditures. As such, the Budget & Personnel Committee recommends raising the fee to \$342 to address the rise in recurring expenditures, the need to increase the agency's staffing capacity, and provide contingency funding for unanticipated costs. This fiscal responsibility is of paramount importance for the long-term sustainability of programs and services.

### *Expanding Staff Capacity*

In previous years, payroll, finance, and budgetary functions were inefficiently divided among multiple work units. A significant result of the FY2023/24 fee increase has been the successful creation of the Finance Unit, a dedicated unit responsible for overseeing all facets of the agency's financial operations. The establishment of the Finance Unit has played a vital role in simplifying our fiscal processes. It now serves as the central hub for finance, budgetary, payroll, and contract functions, consolidating these crucial elements under a unified and specialized team.

### *Digital Education and Social Media Coordinator*

For years, the Board has expressed an interest in increasing the agency's social media presence and adapting our outreach program to include popular applications such as Twitter and LinkedIn. Additionally, as the Rent Board aligns with the City of Berkeley's new website platform, there will be an increased need to centralize the management of our print, web, and digital outreach to ensure clear, consistent, and accurate messaging. The Digital Education and Social Media Coordinator will also be responsible for increasing our digital education presence which will update the community more broadly on important affordable housing matters, legislation, and resources that inform and benefit those we serve.

### *Policy Director*

The Board has expressed a historical interest dating back to previous years in augmenting the staffing model to include a Policy Director. Most of the policy issues the Board has raised recently are in housing and land use planning. These discussions have illuminated the need for a staff member with a specialized background and education who can provide nuanced direction on the diverse and intricate policy initiatives under consideration. The proposed addition of a Policy Director is an essential step towards fortifying our organizational capacity and ensuring the successful adoption and implementation of policies that resonate with the Board's mission and goals.

### *Administrative Staff Support*

The Executive Director has operated without dedicated administrative support for the past two years. Increasing the capacity of the Rent Board by adding an Administrative Staff Assistant will be instrumental in enhancing operational effectiveness, improving communication, and ensuring compliance within the agency. The Administrative Staff Assistant will support the Executive Director with efforts to streamline daily operations by managing schedules, organizing meetings, handling correspondence, and organizing logistics to track key project milestones for the agency. The new position will allow executive staff to focus on strategic decision-making

and programmatic priorities, ultimately increasing efficiency.

### *Anticipated Legal Costs*

Beginning April 2020, the Board's Legal Unit experienced significant staff shortages and higher than usual demand for litigation support. The Board's long-time Executive Director retired, and the Board's Senior Staff Attorney filled in as his interim replacement from April 2020 until early November 2021. Additionally, at that time one of the Staff Attorneys resigned to accept another position at the City Attorney's Office. Lastly, another Staff Attorney resigned near the end of 2021. As such, the agency was left with less than a full complement of attorneys in the Legal Unit.

Throughout that period, the Board experienced significant salary savings during a time when there was an increased need for legal services due to two significant factors – 1. The need to reimagine services while complying with various open government laws due to the challenges of operating during COVID while communicating all of this with staff, the elected Commissioners, and the public; and 2. Several court cases were filed against the Board that required more litigation support than the unit was able to handle.

The Legal Unit was largely able to pivot and provide all necessary support to address almost every concern and challenge presented by operating a government agency during the COVID restrictions. As such, the agency was able to use some of the salary savings from the prolonged staffing shortages in order to hire outside counsel to respond to several important challenges initiated by Berkeley landlords. These cases were costly to defend as the litigants utilized various tactics to ensure that the Board would have to expend maximum resources to properly defend itself. For example, the landlord in one of the cases sought review at the California Supreme Court (which review was ultimately denied) after losing at both the trial and appellate court level. To be clear, the agency's legal unit would have been able to absorb this litigation and handle it in house had it been fully staffed even during a time of increased need associated with responding to numerous issues associated with the COVID pandemic. This case was costly, but ultimately the Board secured a tremendous result as the appellate court's decision became published law and meaningfully protects Berkeley tenants even after property owners obtain a new certificate of occupancy when they substantially rehabilitate their rental units. Not only does this protect affordable housing in this community going forward, but it can also be used throughout California to clarify cities' abilities to continue to attach rent controls to older housing stock when it is significantly rehabilitated. In short, this was money well spent, particularly when you consider that the landlord in this case has several other rental units that have been similarly rehabilitated.

The Board found it necessary to increase outside counsel funding for these various cases several times over the course of litigation given that the landlords who initiated them took them farther than anyone (including outside counsel) anticipated. Nevertheless, again, the amount used to support outside counsel services still represented a net savings over the long term, because the unit was understaffed during that time.

The current fiscal year brings new hurdles. The Board has been served with a rather important class action lawsuit that challenges the Measure MM fee adopted in November 2020 to allow the Board to register and provide services to various partially covered Berkeley rental units. Board

legal staff anticipate spending about \$75,000 to hire outside counsel to assist with this litigation. There is much work to be done, and legal staff believes it crucial to have the expertise of outside counsel to take the lead on litigation that has never been filed against the Board. It is common and best practice to engage with outside counsel in these types of cases even in situations where a municipal legal unit is fully staffed. For example, the City Attorney's Office maintains a robust fund to hire outside counsel when in house staff require assistance with matters that require unique expertise.

Moreover, the legal unit has stepped up compliance efforts over the last couple years and has been able to secure several large payments from landlords who failed to pay fees and penalties over the years. For example, over the last fiscal year, the Legal Unit has settled four large superior court cases for delinquent fees and penalties for \$124,403. Legal staff will continue to focus on these compliance cases to ensure that property owners pay fees and penalties when they are legally due.

The Budget & Personnel Committee's fee recommendation ensures there is sufficient funding in FY 2024/25 to fund the Digital Education and Social Media Coordinator, the Policy Director, the Administrative Staff Support position, and any anticipated legal costs.

#### Targeting a 16% Reserve

In past years, the Board has 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. In recent years, the Board has approved a reduction of the uncommitted reserve to a low level of 4%-6%, well below the Board's historical 8% to 16% reserve target. Last year, the Budget & Personnel Committee recommended targeting a 16% reserve level but authorized a decrease to below 12% to cover expenses related to the office move and other costs. Looking ahead to the FY 2024/25 fiscal year, Staff and the Budget & Personnel Committee anticipate the Board will start with over \$1,100,000 in uncommitted reserves, representing the targeted 16% level, which is considered best practice. However, this may not be sufficient to boost organizational capacity and cover anticipated legal costs. Currently, Staff projects that the Board will end the year at the target 16% reserve level, partially due to unexpected salary savings.

#### Returning to a "Pay as you go" Budget Strategy

The Board had historically 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 veered away from this strategy in recent years to avoid fee increases, the imperative to maintain a balanced budget, adhere to best practice reserve levels, and enhance organizational capacity to improve operations has led to the necessity of considering required fee adjustments.

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 a drawing down of the reserves would only be used for one-time or short-term expenses. Staff recommends the Board resume the "pay as you go" strategy to address the current anticipated budget deficit and ensure a healthy uncommitted reserve at the Board's target level while also addressing capacity and program needs.

**Fully-Covered Registration Fee as Percentage of Average (Mean) Rent**

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.

<b>Fully Covered Registration Fee as a percentage of rent</b>			
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%
2022	\$250	\$2,138	0.97%
2023	\$290	\$2,154	1.12%
2024	\$310*	\$2,230	1.15%
2024	\$342 **	\$2,230	1.26%
2024	\$344`	\$2,230	1.27%

\* A fully covered fee increase to \$310 is necessary to cover existing recurring expenditures

\*\* Budget & Personnel Committee recommended fully covered fee level

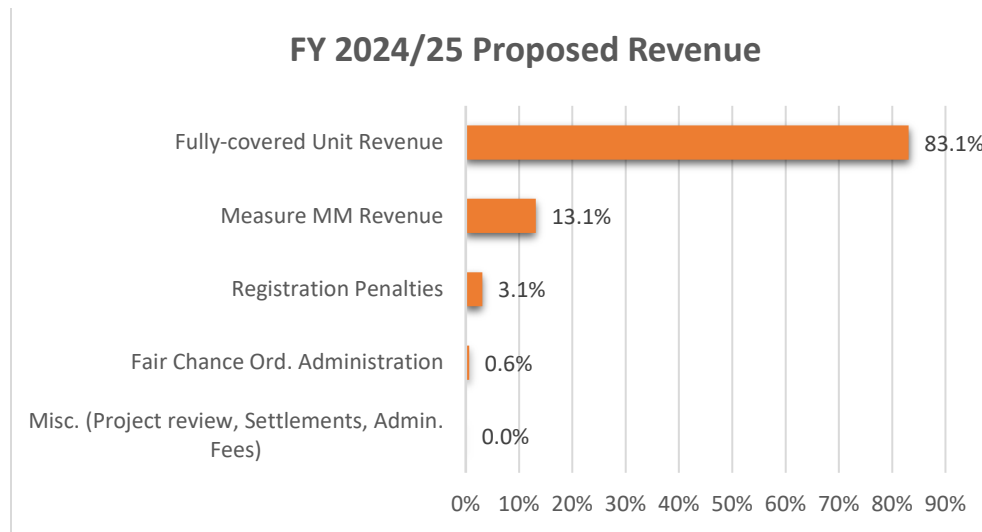
The shaded area reflects a pre-vacancy decontrol program, while 1998 transitioned from full rent control to decontrol. Mean monthly rent is calculated from the preceding calendar year, meaning the 2023 registration fee compares the fee with the average (mean) monthly rent in 2022. The 2024 (mean) monthly rent data is the average (mean) monthly rent from January – March 2024.

If the Board increases the fully covered fee to \$342 as recommended, the fee will be 1.26% of the average (mean) annual rent for controlled rental units in Berkeley. As the chart above notes, increasing the fully covered fee to \$344 will be 1.27% of the average (mean) annual rent. Since 1998, the beginning of vacancy decontrol, the registration fees have primarily been in a range of 1%-1.32%, and the proposed fee increases, \$342 or \$344, will result in up to 1.27%, which would fall well within the range of being historically proportionate to the average annual rent.

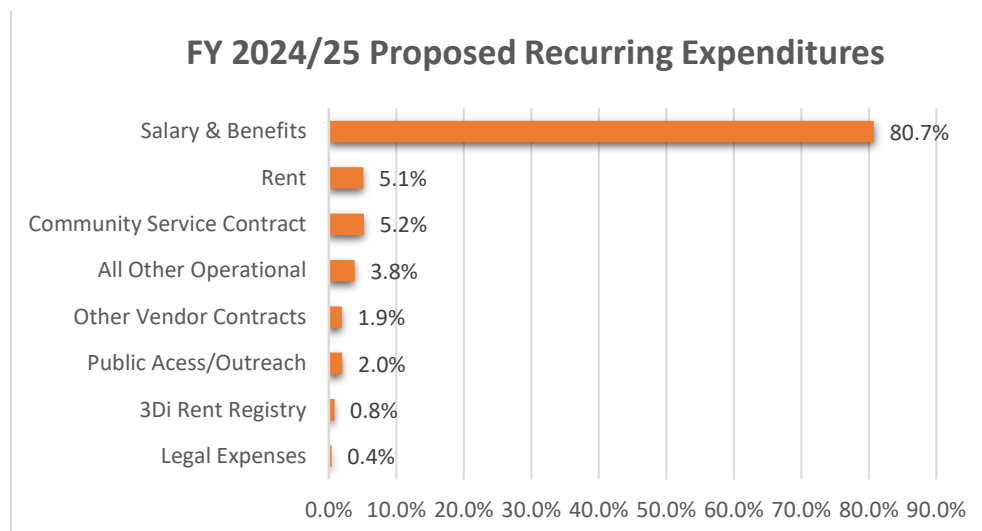
Moreover, raising the fees would not only assist the Board in aligning its revenue with the escalating program costs but also guarantee compliance with the targeted 16% reserve level. For the FY 2024/25 period, the Board must raise the fully covered registration fee by a minimum of \$310 to ensure adequate funding to account for recurring expenditures. Accordingly, the Budget & Personnel Committee proposes increasing the fully covered fee to \$342 for staffing needs, adequate funding for anticipated program expenses, and unforeseen costs.

**Strategies for Resolving the Structural Deficit in FY 2023/2024**

When considering how best to bridge the \$330,000 gap between revenues and projected baseline expenses, the Committee analyzed the revenue and expenditure patterns of both the current year's adopted budget. Over 96% of revenue comes from the registration fee, with the remaining balance coming from penalties and fees for services to other departments in the City of Berkeley.



Expenditures are apportioned as follows:



This adjustment aims to address the surge in recurring expenditures, the necessity to enhance the agency's staffing capacity, and to provide contingency funding for both anticipated legal and



unforeseen costs. Such fiscal prudence is essential for the sustained viability of programs and services in the long run.

**Conclusion**

Staff and the Budget & Personnel Committee recommend that the Board adopt resolutions to set the fee for fully covered units at \$342 and for partially covered units subject to Measure MM at \$211 per unit. The Committee also recommends that the Board set a \$96 fee for Summer Fraternity and Sorority and a \$53 fee for partially covered units subject to Measure MM in affordable housing projects managed by a non-profit and 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

Attachments:

1. Proposed FY25 Expenditure Worksheet

Rent Stabilization Program FUND 440 FY 2025 Proposed Budget Update		
Code	Description	Projected FY 2025
11-01	Monthly Employees	3,515,000
11-03	Hourly Employees	0
13-01	Overtime	1,000
27-20	Benefits	2,380,000
30-12	Stipends	167,000
30-12b	Technology Stipend	15,000
30-23	Misc. Legal Expenses	30,000
30-36	Temp. Agency Employees	10,000
30-38	Misc. Professional Services	456,000
30-42	Office Equip. Mtc. Svcs. / Furniture	25,000
30-43	Bldg. & Structures Mtc. Svc.	500
30-51	Bank Credit Card Charges	20,000
40-10	Professional Dues & Intern Fees	2,000
40-31	Telephones	9,000
40-50	Printing and Binding	30,000
40-62	Meals & Lodging	10,000
40-63	Registration Fees/Training	13,000
40-61/64	Transportation & Commercial Travel	5,000
40-70	Advertising/public access	99,100
40-80	Books & Publications	20,000
50-10	Rental of Land / Buildings	374,000
51-10	Postage	40,000
51-20	Messenger / Delivery	500
55-11	Office Supplies	13,500
55-50	Food and Water	5,000
644110	Supplies - Clothing	3,000
70-43	Office Equipment and Furniture	5,000
70-44	Computers, Printers, Software	15,000
75-25	PC Replacement/City Software Licences	74,305
75-35	Mail Services	3,600
75-50	City Vehicle / Fuel & Maint.	15,000
	Displacement Reimbursement Offset	0
	Unallocated	
	<b>Expenditure Subtotal**</b>	<b>7,356,505</b>
		<b>Projected FY 2025</b>
	<b>Total Projected Fund Expenditures*</b>	<b>7,356,505</b>

\* Note: this report only reflects charges against the Rent Board Fund (Fund 440) and does not include services charged to or received from other funds

## RESOLUTION 24-05

### SETTING THE FISCAL YEAR 2024/2025 ANNUAL REGISTRATION FEE FOR FULLY-COVERED UNITS; DUE JULY 1, 2024

BE IT RESOLVED by the Rent Stabilization Board of the City of Berkeley as follows:

WHEREAS, the Rent Stabilization Board operates based on 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 \$7,400,000 in FY 2025 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 by 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 four times; 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

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

## RESOLUTION 24-05

### SETTING THE FISCAL YEAR 2024/2025 ANNUAL REGISTRATION FEE FOR FULLY-COVERED UNITS; DUE JULY 1, 2024 (Page 2)

WHEREAS, in FY 2023/24 to reach the revenue targets, an annual registration fee of \$290 per unit fee for fully covered units was necessary; and

WHEREAS, because of salary-related savings and higher-than-expected revenue in FY 2023/24, the Board had an operational reserve balance of approximately 12% of annual operational expenditures; and

WHEREAS, the Board is targeting a higher operational reserve balance of 16% of annual operational expenditures for FY 2024/25; and

WHEREAS, in FY 2024/25 to reach the recurring revenue target, address increased staffing needs and anticipated legal costs, an annual registration fee of \$342 per unit fee for fully covered units is required; and

WHEREAS, the proposed fee of \$342 represents 1.26% of the average (mean) monthly rent for rental units regulated by the Berkeley Rent Stabilization Program; and

WHEREAS, on March 7, 2024, the Budget & Personnel Committee recommended the fully covered rental fee be increased to \$342 per unit for the 2024/25 registration year; 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 2024; and

WHEREAS, in accordance with California Government Code section 66016, on March 21, 2024, the Board provided notice to the public that the Board would hold a public hearing to consider increasing registration fees for the 2024/25 fiscal year and that data indicating the estimated cost required to provide the services for which the registration fee is levied and the revenue sources anticipated to provide the services was available to the public; and

WHEREAS, in accordance with California Government Code section 66016, at its March 21, 2024, Regular Meeting, the Board held a public hearing, in which the public was able to make oral or written comments, to consider raising registration fees; and

THEREFORE, BE IT RESOLVED that the annual FY 2024/25 registration fee for fully covered rental units, due July 1, 2024, is hereby set at \$342 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 fully covered units in FY 2025.

**RESOLUTION 24-05**

**SETTING THE FISCAL YEAR 2024/25 ANNUAL REGISTRATION FEE FOR FULLY-COVERED UNITS; DUE JULY 1, 2024 (Page 3)**

Dated: March 21, 2024

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

YES:

NO:

ABSTAIN:

ABSENT:

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Leah Simon-Weisberg, Chairperson  
Rent Stabilization Board

Attest: \_\_\_\_\_  
DéSeana Williams, Executive Director

## **RESOLUTION 24-06**

### **SETTING THE FISCAL YEAR 2024/25 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS; DUE JULY 1, 2024**

BE IT RESOLVED by the Rent Stabilization Board of the City of Berkeley as follows:

WHEREAS, the Rent Stabilization Board operates based on 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 \$7,400,000 in FY 2024/25 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 2020/21; 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 2021/22 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 24-06**

### **SETTING THE FISCAL YEAR 2024/25 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS; DUE JULY 1, 2024 (Page 2)**

WHEREAS, in FY 2021/22 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 2022/23 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 2022/23; and

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

WHEREAS, in FY 2023/24 the Board adopted a fee of \$178 per unit fee for partially covered Measure MM units to cover program expenses; 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 increase the staffing level to allow that to happen; and

WHEREAS, the Executive Director and Rent Stabilization Board believe that \$1,055,000 in annual revenue will be necessary to register and provide services to Measure MM units in FY 2024/25; and

WHEREAS, in FY 2024/25 to account for an increase in recurring expenditures, organizational capacity, and anticipated legal costs, a \$211 per unit fee for partially covered Measure MM units is required; and

WHEREAS, on March 7, 2024, the Budget & Personnel Committee recommended the partially covered rental fee be increased to \$211 per unit for the 2024/25 registration year; 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 2024; and

WHEREAS, in accordance with California Government Code section 66016, on March 21, 2024, the Board provided notice to the public that the Board would hold a public hearing to consider increasing registration fees for the 2024/25 fiscal year and that data indicating the

**RESOLUTION 24-06**

**SETTING THE FISCAL YEAR 2024/25 ANNUAL REGISTRATION FEE FOR PARTIALLY COVERED MEASURE MM UNITS; DUE JULY 1, 2024 (Page 3)**

estimated cost required to provide the services for which the registration fee is levied and the revenue sources anticipated to provide the services was available to the public; and

WHEREAS, in accordance with California Government Code section 66016, at its March 21, 2024, Regular Meeting, the Board held a public hearing, in which the public was able to make oral or written comments, to consider raising registration fees; and

NOW THEREFORE, BE IT RESOLVED that the annual FY 2024/25 registration fee for partially covered Measure MM units, due July 1, 2024, is hereby set at \$211 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 2024/25.

Dated: March 21, 2024

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

YES:

NO:

ABSTAIN:

ABSENT:

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Leah Simon-Weisberg, Chairperson  
Rent Stabilization Board

Attest: \_\_\_\_\_  
DéSeana Williams, Executive Director

## **RESOLUTION 24-07**

### **SETTING THE FISCAL YEAR 2024/25 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 1, 2024**

BE IT RESOLVED by the Rent Stabilization Board of the City of Berkeley as follows:

WHEREAS, the Rent Stabilization Board operates based on 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 \$7,400,000 in FY 2024/25 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 that fiscal year were considered and potentially increased 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

## RESOLUTION 24-07

### **SETTING THE FISCAL YEAR 2024/2025 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 1, 2024 (Page 2)**

anti-rent-gouging law (AB 1482), the Tenant Buyout Ordinance, the Rental Housing Safety Program, and the Short-Term Rental Ordinance; and

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

WHEREAS, at the time, the Rent Stabilization Board decided not 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 been registered under Measure MM affordable housing units thus far in FY 2024; and

## RESOLUTION 24-07

### **SETTING THE FISCAL YEAR 2024/2025 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 1, 2024 (Page 3)**

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, 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, a \$37 per unit fee for partially covered Measure MM units in affordable housing projects was required for FY 2024; and

WHEREAS, in FY 2024/25 to account for an increase in recurring expenditures, staffing needs, and anticipated legal costs, a \$56 per unit fee for partially covered Measure MM units in affordable housing projects is required; and

WHEREAS, on March 7, 2024, the Budget & Personnel Committee recommended the partially covered Measure MM units in affordable housing projects fee be increased to \$56 per unit for the 2024/25 registration year; 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 2024; and

WHEREAS, in accordance with California Government Code section 66016, on March 21, 2024, the Board provided notice to the public that the Board would hold a public hearing to consider increasing registration fees for the 2024/25 fiscal year and that data indicating the estimated cost required to provide the services for which the registration fee is levied and the revenue sources anticipated to provide the services was available to the public; and

WHEREAS, in accordance with California Government Code section 66016, at its March 21, 2024, Regular Meeting, the Board held a public hearing, in which the public was able to make oral or written comments, to consider raising registration fees; and

NOW THEREFORE, BE IT RESOLVED that the annual FY 2024/25 registration fee for partially covered Measure MM affordable housing units, due July 1, 2024, is hereby set at \$56 per unit, due July 1, 2024, for partially covered Measure MM affordable housing units owned by a limited partnership and having a managing general partner that qualifies as a 501(c)(3) non-profit

**RESOLUTION 24-07**

**SETTING THE FISCAL YEAR 2024/2025 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 1, 2024 (Page 4)**

organization that is in a housing project within the regulatory period established by a regulatory agreement with the City of Berkeley through its Housing Trust Fund program; 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 affordable housing units in FY 2024/25.

Dated: March 21, 2024

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 24-08**

### **ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2024/25 FISCAL YEAR**

BE IT RESOLVED by the Rent Stabilization Board of the City of Berkeley as follows:

WHEREAS, for over thirty-six years neither fraternities nor sororities were expressly exempt from the provisions of the Rent Stabilization Ordinance; and,

WHEREAS, as early as 1982, the City Attorney crafted legal opinions for the Rent Board and City Council that confirmed the applicability of the ordinance to fraternities and sororities due to their similarity to rooming houses; and,

WHEREAS, the Board did not charge a number of fraternities for Registration Fees before the 2012/2013 fiscal year, because the Board was not made aware that fraternities were routinely renting to non-members during the summer months; and,

WHEREAS, when the Board became aware of these summer rentals, the Commissioners authorized an amnesty program wherein the fraternities were only charged fees for three years and all penalties were forgiven; and

WHEREAS, by Resolution 12-07, the Board initiated a pilot program during the 2012/2013 fiscal year to charge all qualifying fraternities \$50 per unit for summer rentals to non-members in order to meet the anticipated costs for implementing services related to this discreet group of summer fraternity rentals; and

WHEREAS, Board staff was largely successful in registering fraternities' summer tenancies; and,

WHEREAS, before the 2013/2014 fiscal year, staff investigated summer rentals in sororities and found that the vast majority of sorority rooms did NOT qualify as controlled rental units; and,

## **RESOLUTION 24-08**

### **ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2024/2025 FISCAL YEAR (Page 2)**

WHEREAS, the Board adopted Resolution 13-04 on May 13, 2013, which made clear that the Board wishes to continue to charge a reduced fee for summer rentals in fraternities and wishes to extend the same option to sororities should they decide to provide housing to non-member summer tenants; and,

WHEREAS, the Board adopted similar resolutions in from 2014 through 2023 which made clear that the Board wishes to continue to charge a reduced fee for summer rentals in fraternities and wishes to extend the same option to sororities should they decide to provide housing to non-member summer tenants; and,

WHEREAS, with the passage of Measure AA, fraternities and sororities are now exempt under the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance (B.M.C. 13.76.050M) as long as a rental unit or room is rented to an active member of the chapter and that chapter owns the fraternity or sorority where the member is residing; and,

WHEREAS, on April 24, 2017, the Board adopted Rent Board Regulation 520 specifying that rental units located within a fraternity or sorority that is occupied by a non-member is subject to all sections of the Rent Control Ordinance and that tenants who occupy rental units for only part of the year in such chapters shall be considered “authorized seasonal rentals” and those rooms/units shall be charged a reduced registration fee; and,

WHEREAS, on April 24, 2017 the Board adopted Rent Board Regulation 808 specifying that an “authorized seasonal rental” of a fraternity or sorority is a rental that occurs during the summer months and that the Board is authorized to charge a reduced registration fee for these rentals and said fee shall be set when the Board sets its annual fee for all units; and

## RESOLUTION 24-08

### ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2024/2025 FISCAL YEAR (Page 3)

WHEREAS, on May 15, 2017 the Board set the summer rental fee at \$70 per unit; and

WHEREAS, on May 7, 2018 the Board set the summer rental fee at \$70 per unit; and

WHEREAS, on April 18, 2019 the Board set the summer rental fee at \$70 per unit; and

WHEREAS, on April 30, 2020 the Board set the summer rental fee at \$70 per unit; and

WHEREAS, on May 6, 2021 the Board set the summer rental fee at \$70 per unit; and

WHEREAS on April 21, 2022, the Board set the summer rental fee at \$70 per unit for the 2022/2023 registration year; and

WHEREAS on March 16, 2023 the Board set the summer rental fee at \$70 per unit for the current 2023/2024 registration year; and

WHEREAS, on March 7, 2024 the Budget & Personnel Committee recommended the summer rental fee be increased to \$96.00 per unit for the 2024/2025 registration year to match any increase in the fees for fully-covered units;

WHEREAS, in accordance with California Government Code section 66016, on March 21, 2024, the Board provided notice to the public that the Board would hold a public hearing to consider increasing registration fees for the 2024/2025 fiscal year and that data indicating the estimated cost required to provide the services for which the registration fee is levied and the revenue sources anticipated to provide the services was available to the public; and

WHEREAS, in accordance with California Government Code section 66016, at its March 21, 2024 Regular Meeting, the Board held a public hearing, in which the public was able to make oral or written comments, to consider raising registration fees.

## **RESOLUTION 24-08**

### **ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2024/2025 FISCAL YEAR (Page 4)**

NOW, THEREFORE, BE IT RESOLVED that for the 2024/2025 registration year, the reduced registration fee for authorized seasonal rentals for qualifying fraternities and sororities shall be set at \$96 per unit for summer rentals to non-members in order to meet the anticipated costs for implementing services related to this discreet group of summer fraternity/sorority rentals; and,

BE IT FURTHER RESOLVED that for purposes of this Resolution, the “Summer Rental Period” shall be May 12, 2024, through August 16, 2024; and,

BE IT FURTHER RESOLVED that if a non-fraternity/non-sorority member remains a tenant during any time outside of the Summer Rental Period, the fraternity/sorority shall be required to pay a full registration fee as defined by Resolution 24-05 for the rental unit; and,

BE IT FURTHER RESOLVED that fraternities and sororities shall be required to submit Fraternity/Sorority Summer Registration Forms for each rental to a non-member living at the chapter during the Summer Rental Period; and,

BE IT FURTHER RESOLVED that fraternities and sororities shall post a copy of this Fraternity/Sorority Summer Registration Form in a clearly visible space in the room/unit occupied by the non-member tenant throughout the entirety of the Summer Rental Period; and,

BE IT FURTHER RESOLVED that all fraternities and sororities shall provide a permanent contact person to whom Board staff can send a bill (this person should not be a student, as the Board intends to maintain contact with this representative for all matters related to current and future registration and billing); and,

## **RESOLUTION 24-08**

### **ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2024/2025 FISCAL YEAR (Page 5)**

BE IT FURTHER RESOLVED that, this Resolution incorporates by reference the fraternities listed in Board Resolutions 12-07,13-04, 14-04, 15-03, 16-03, 17-06, 18-07, 19-10, 20-06, 21-08 and the sororities listed in Board Resolution 17-06, 18-07, 19-10, 20-08, 21-08, 22-09; and 23-09; and

BE IT FURTHER RESOLVED that the Board shall revisit the issue of which fraternities and sororities qualify for a reduced Summer Rental Period registration fee should the Board wish to adopt a similar fee in future years; and,

BE IT FURTHER RESOLVED that if another fraternity or sorority not identified by this Resolution submits a claim that it should qualify for the reduced Summer Rental Period registration fee, the fraternity/sorority shall submit its claim to the Board, and staff shall review any such claim and determine its eligibility; such determination may be appealed to the Board as other claims of exemption are reviewed; and,

BE IT FURTHER RESOLVED that in no case shall a fraternity or sorority be permitted to participate in this program to pay a reduced registration fee for the Summer Rental Period for the 2024/2025 fiscal year unless that fraternity/sorority has fully resolved any past due Board registration fees and is otherwise in compliance with the Rent Ordinance registration requirements; and,

BE IT FURTHER RESOLVED that Board staff shall be empowered to investigate and inspect fraternities and sororities during the Summer Rental Period to ensure they are complying with the terms of this Resolution; and,

BE IT FURTHER RESOLVED that Board staff is authorized to develop rules and procedures to implement the counseling, registration, and services associated with this program; and,

**RESOLUTION 24-08**

**ESTABLISHING THE REGISTRATION FEE FOR FRATERNITIES AND SORORITIES FOR THE SUMMER RENTAL PERIOD DURING THE 2024/2025 FISCAL YEAR (Page 6)**

BE IT FURTHER RESOLVED that violations of terms set forth in this Resolution shall require Board staff to charge fraternities and sororities a full registration fee for all units where violations are found and require that Board staff charge penalties allowed by Berkeley Municipal Code Section 13.76.080.

Dated: March 21, 2024

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

- YES:
- NO:
- ABSTAIN:
- ABSENT:

\_\_\_\_\_  
Leah Simon-Weisberg, Chair  
Rent Stabilization Board

Attest: \_\_\_\_\_  
DéSeana Williams, Executive Director