



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: April 20, 2023

TO: Honorable Members of the Rent Stabilization Board

FROM: DéSeana Williams, Executive Director

BY: Amanda Eberhart, Registration Unit Manager

SUBJECT: 1951 Chestnut: Request for waiver of late registration penalties

Recommendation:

Upon further research into the LLC’s full portfolio, the payment history of properties owned in the City of Berkeley, the registration compliance questions regarding 2072 Addison, and the totality of the circumstances presented, staff recommends the Board deny the waiver.

Background and Need For Rent Stabilization Board Action:

The Board’s penalty waiver process is governed by Regulations 883, 884 and 885. 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).

Discretionary Waivers

For the waiver request 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
W5053	1951 Chestnut	RUEGG & ELLSWORTH LLC	9,000	0	9,000
TOTAL			9,000	0	9,000

Analysis and Recommendation

On November 30, 2022, Rent Board staff received a request for waiver of penalties from Lapham Company, the property management entity for 1951 Chestnut. In their initial waiver request, the property manager implied confusion about who was paying the registration fee. The property manager and the LLC believed the other entity had paid the registration fee.

On March 16, 2023, the waiver for 1951 Chestnut was presented to the Board. Staff presented the initial summary below:

The current owner has owned the 36-unit multi-residential property at 1951 Chestnut St since January 2022. Unfortunately, the current owner did not have any financial history to review. In the last five fiscal years, the prior owner made no late payments. The property manager states in their waiver that “the property management staff thought the owner paid, and the owner thought the property management company paid the 22/23 registration fee”. Unfortunately, neither party paid by the July 1 deadline. Under regulation 884 B (6), this property owns more than 11 units and must be heard by the Board. However, under Regulation 884 C, this property qualifies to have 100% of the penalty fee waived based on payment history. Staff recommends waiving 100% of the penalties.

At the Board meeting, the Commissioners requested staff to conduct additional research into the LLC to clarify and confirm the LLC’s entire property portfolio in the City of Berkeley. Based on research conducted in collaboration with Rent Board Planning colleagues and the Berkeley Planning Department, the following information was uncovered:

Ruegg & Ellsworth LLC

- Ruegg & Ellsworth LLC is a developer in the City of Berkeley
- The LLC currently own 4 other properties in Berkeley
- 2942 College
 - 6 units
 - Application/Permit pending
- 2480 Bancroft
 - 28 units over 1 commercial space
 - Application/permit pending
- 2072 Addison
 - 60 units over 1 commercial space
 - The property was scheduled to be completed in 2022
 - Their website is advertising 1- and 2- bedroom apartments
 - County records lists the property as a vacant apartment
 - It is also currently not registered with the Rent Board
- 2526 Durant
 - 44 units over 2 commercial spaces
 - The property is registered with the Rent Board as New Construction and is partially covered

Waiver Recommendations

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- This property is also managed by Lapham company
- This property has paid the 21/22 and the 22/23 registration fees late. For each of those registration years, the property was granted either an Administrative waiver or a Covid Waiver.
- Total Penalties waived over two years: \$12,600

Upon further research into the LLC's full portfolio, the payment history of properties owned in the City of Berkeley, the registration compliance questions regarding 2072 Addison, and the totality of the circumstances presented; staff recommends the Board deny the waiver.

Financial Impact: Discretionary Waivers

Approval of Executive Director's recommendations will decrease the Board's current accounts receivable by **\$0.00**.

Name and Telephone Number of Contact Person:

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

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5078	Property address: 1951 CHESTNUT ST	Transferred: 01/24/2021
Exempt units (as of February 2021): None		
Owner(s): RUEGG & ELLSWORTH LLC	Waiver filed by: PROPERTY MANAGER	# of Units: 36
Other Berkeley rental property owned: None		

Late payment/penalty history: Unfortunately, the current owner did not have any financial history to review. In the last five fiscal years the prior owner did not make 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: Owns or manages more than 11 units

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	36	\$9,000.00	12/06/2022	\$9,000.00	\$0.00	\$9,000.00
Totals				\$9,000.00	\$0.00	\$9,000.00

Grounds under Regulation 884(B): (6) The landlord requesting the waiver owns or manages 11 or more rental units

Good cause claimed by owner: There was confusion between the property owner and the property management company on who was going to pay the 22/23 registration fee.

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

Staff Analysis: The 36-unit multi-residential property located at 1951 Chestnut St has been owned by the current owner since January 2022. Unfortunately, the current owner did not have any financial history to review. In the last five fiscal years the prior owner did not make any late payments. The property manager states in their waiver that, "the property management staff thought the owner paid and the owner thought the property management company paid the 22/23 registration fee". Unfortunately, neither party paid by the July 1st deadline. Under regulation 884 B (6), this property owns more than 11 units and must be heard by the Board. However, under Regulation 884 C, this property qualifies to have 100% of the penalty fee waived based on payment history.

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DEC 6 - 2022

Initial: Berkeley Rent Board

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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: 1951 Chestnut Street, Berkeley 94702

Owner: Ruegg & Ellsworth LLC

Date of acquisition, if new owner: _____

Name & relationship of person filing request, if not owner: Jon Shahanian / Lapham Company - property mgr.

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.

The Lapham Company, Inc. was retained as Property Manager of 1951 Chestnut Street at close of purchase escrow. In the new onboarding process, our office staff believed that the Ruegg & Ellsworth office had completed the registration. And the Ruegg & Ellsworth office assumed that Lapham Company had completed the registration. We did not know of the failure to register until we received the penalty notice.

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

Date: 11/30/2022 Signature: [Signature] property manager / Agent

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: Jon@laphamcompany.com

Mailing Address: 4844 Telegraph Avenue, Oakland, CA 94609

Phone Number: 510-594-7600 ext 102 Fax Number: 510-594-7611

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