


Rent Stabilization Board

MEMORANDUM

DATE: October 20, 2022
TO: Honorable Members of the Berkeley Rent Stabilization Board
FROM: Matt Brown, General Counsel 
SUBJECT: 2023 ANNUAL GENERAL ADJUSTMENT STAFF REPORT

Recommendation

That the Board adopt Resolution 22-26 to publish and publicize that, pursuant to Berkeley Municipal Code section 13.76.110, the annual general adjustment (AGA) of rent ceilings for 2023 is an upward adjustment of **4.4%**.

I. Background

Section 11 of the Rent Stabilization Ordinance, codified at Berkeley Municipal Code (B.M.C.) section 13.76.110, provides for an annual general adjustment of rent ceilings for rental units covered by the Ordinance. From 1980 through 2004, Section 11 required the Rent Board to annually enact a general adjustment formula based on a survey of typical changes in apartment operating and maintenance costs. At the November 2004 general municipal election, the voters substantially amended Section 11 of the Ordinance so that now each year's AGA is set as a fixed percentage of the prior fiscal year's increase in the Consumer Price Index.

II. Computing AGA in Accordance with Berkeley Municipal Code Section 13.76.110.A.

As amended, B.M.C. section 13.76.110.A now mandates that, effective January 1st of each year, the rent ceiling for all rental units covered by the Rent Stabilization Ordinance, except those for which the landlord established an initial rent during the prior calendar year, shall be adjusted by 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30. In determining the allowable percentage rent increase, numbers of .04 and below shall be rounded down to the nearest tenth decimal place and numbers of .05 and above shall be rounded up to the

nearest tenth decimal place. In no event shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%). The Rent Board is required to publish and publicize the annual general adjustment on or about October 31st of each year.

The U.S. Department of Labor, Bureau of Labor Statistics, has reported that for the twelve-month period ending June 30, 2022, the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose region increased from 309.497 to 330.539, an increase of 21.042 points. Thus, the relevant CPI from June 2021 (309.497) to June 2022 (330.539) has increased by 6.8%.¹ (See Attachment 1.) Under Berkeley Municipal Code section 13.76.110.A, the AGA for 2023 is **4.4%** (i.e., 65% of 6.8 = 4.42 rounded to the nearest tenth decimal place).

Accordingly, effective January 1, 2023, the 2022 rent ceilings for all controlled rental units, except those for which an initial rent was established between January 1, 2022 and December 31, 2022, shall be increased by **4.4%**.

III. Conditions for Taking the Annual General Adjustment

An upward general adjustment in rent ceilings does not automatically provide for a rent increase and a landlord must meet the conditions for qualifying to take the AGA.

Allowable rent increases pursuant to an AGA become effective only after the landlord gives the tenant at least 30 days written notice and the notice period expires. (B.M.C. §13.76.110.B.) Moreover, if the maximum allowable rent specified under the Rent Ordinance is greater than the rent specified for the unit in a rental agreement, the lower rent specified in the rental agreement is the maximum allowable rent until the rental agreement expires. If the maximum allowable rent specified under the Ordinance is less than the rent specified in the rental agreement, the lower rent specified under the Ordinance is the maximum allowable rent. (B.M.C. §13.76.110.C.)

The Rent Ordinance further provides that no rent increase pursuant to an AGA shall be effective if the landlord:

1. Has continued to fail to comply, after order of the Board, with any provisions of the Rent Ordinance and/or Board orders or regulations;
2. Has failed to bring the rental unit into compliance with the implied warranty of habitability;
3. Has failed to make repairs as ordered by the housing department of the City of Berkeley; or
4. Has failed to completely register the rental units as required by B.M.C. §13.76.080.

Each of the conditions for taking an AGA are traditionally incorporated into the text of the AGA order.

¹ While the actual difference is 6.799%, it has been the Board's practice to base the 65% calculation on the CPI percentage increase rounded to the nearest tenth decimal place.

IV. Staff Review

Staff has reviewed the Consumer Price Index figures published by the U.S. Department of Labor, Bureau of Labor Statistics and confirms that, pursuant to Berkeley Municipal Code section 13.76.110.A, the 2023 AGA is an increase of **4.4%**. Staff recommends that the Board adopt Resolution 22-26 to publish the 2023 AGA as Regulation 1145 and to direct staff to publicize the 2023 AGA in a manner reasonably calculated to notify all affected persons of the terms of the 2023 Annual General Adjustment no later than November 30, 2022.

Attachments

1. U.S. Department of Labor, Consumer Price Index, All Urban Consumers (CPI), San Francisco-Oakland-San Jose, CA., All items, June 2019 - June 2022.
2. Proposed Resolution 22-26 Confirming that the 2023 Annual General Adjustment Increases Rent Ceilings by **4.4%** and Publishing the 2023 AGA as Regulation 1145.
3. Proposed 2023 Annual General Adjustment (AGA) Order – Regulation 1145.



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Databases, Tables & Calculators by Subject

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CPI for All Urban Consumers (CPI-U)

Series Id: CUURS498SA0

Not Seasonally Adjusted

Series Title: All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted

Area: San Francisco-Oakland-Hayward, CA

Item: All items

Base Period: 1982-84=100

Download: .xlsx

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2019		291.227		294.801		295.259		295.490		298.443		297.007	295.004	293.150	296.859
2020		299.690		298.074		300.032		300.182		301.736		302.948	300.084	299.109	301.059
2021		304.387		309.419		309.497		311.167		313.265		315.805	309.721	306.724	312.718
2022		320.195		324.878		330.539								323.408	

12-Month Percent Change

Series Id: CUURS498SA0

Not Seasonally Adjusted

Series Title: All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted

Area: San Francisco-Oakland-Hayward, CA

Item: All items

Base Period: 1982-84=100

Download: .xlsx

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2019		3.5		4.0		3.2		2.7		3.0		2.5	3.3	3.7	2.9
2020		2.9		1.1		1.6		1.6		1.1		2.0	1.7	2.0	1.4
2021		1.6		3.8		3.2		3.7		3.8		4.2	3.2	2.5	3.9
2022		5.2		5.0		6.8								5.4	

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RESOLUTION 22-26**CONFIRMING THAT THE 2023 ANNUAL GENERAL ADJUSTMENT (AGA) INCREASES RENT CEILINGS BY 4.4 PERCENT AND ORDERING THAT THE 2023 AGA BE PUBLISHED AS REGULATION 1145**

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

WHEREAS, Section 11 of the Rent Stabilization Ordinance, codified as Berkeley Municipal Code section 13.76.110, mandates that effective January 1st of each year, the rent ceiling for all rental units covered by the Ordinance for which the landlord did not establish an initial rent during the prior calendar year shall be adjusted by 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending the previous June 30; and,

WHEREAS, the U.S. Department of Labor, Bureau of Labor Statistics, has reported that the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region for the twelve-month period ending June 30, 2022, has increased by 6.8 percent from 309.497 to 330.539; and,

WHEREAS, 65 percent of 6.8 percent results in an upward adjustment of 4.4 percent, when rounded as required by Berkeley Municipal Code section 13.76.110; and,

WHEREAS, Berkeley Municipal Code section 13.76.110 mandates that the Rent Board publish and publicize the annual general adjustment on or about October 31st of each year,

NOW, THEREFORE BE IT RESOLVED by the Rent Stabilization Board that the 2023 Annual General Adjustment of 4.4% shall be published as Rent Board Regulation 1145 and that Rent Board staff shall publicize the 2023 Annual General Adjustment in a manner reasonably determined to notify all affected persons of the terms of the 2023 Annual General Adjustment no later than November 30, 2022.

Dated: October 20, 2022

Adopted by the Rent Stabilization Board by the following vote:

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chairperson
Rent Stabilization Board

Attest: _____
DeSeana Williams, Executive Director

1145. ANNUAL GENERAL ADJUSTMENT ORDER FOR 2023

(A) In accordance with Section 11 of the Rent Stabilization and Eviction for Good Cause Ordinance as amended and Board Regulation 1100, the Rent Stabilization Board hereby adjusts the Year 2022 Rent Ceilings (exclusive of temporary increases in rent ceilings) upward by 4.4% for all rental units covered by the Ordinance, except those rental units for which an Initial Rent was established pursuant to the Costa-Hawkins Rental Housing Act on or after January 1, 2022.

The Year 2022 Rent Ceiling is defined as the Base Rent Ceiling established in Section 10 of the Ordinance or, for units where an Initial Rent was established between January 1, 1996 and December 31, 2021, the last Initial Rent established pursuant to the Costa-Hawkins Rental Housing Act, plus any adjustment of the Base Rent Ceiling granted by the Board.

(B) The adjustment granted by this Order shall become effective on January 1, 2023, provided the landlord is otherwise entitled to the adjustment pursuant to the provisions of the Ordinance and this Order. The rent ceiling adjustment granted herein shall not apply to the rent ceiling of any rental unit for which an Initial Rent was established pursuant to the Costa-Hawkins Rental Housing Act on or after January 1, 2022.

(C) Rent Ceilings adjusted pursuant to this Order may not be rounded to the nearest dollar amount.

(D) The upward general adjustment granted in this Order does not automatically provide for a rent increase. Rent increases pursuant to this Order shall become effective only after the landlord gives the tenant(s) at least thirty (30) days' prior written notice of such rent increase and the notice period expires.

Each notice to a tenant of a rent increase pursuant to this Order shall be in the following form and contain the following information:

Thirty-Day Notice of Rent Increase

This notice is provided pursuant to the 2023 Annual General Adjustment (AGA) Order of the Rent Stabilization Board.

Tenant's name: _____

Street address: _____ Unit No. _____

The present rent on your unit is \$ _____ per month.

[The 2023 AGA Order adjusts 2022 rent ceilings by 4.4%]

Your rent will increase by \$ _____ pursuant to the 2023 AGA Order.

Your new rent will be \$ _____ per month beginning _____. (This date must be at least 30 days after service of the Notice of Rent Increase.)

Advice concerning this Notice and the rental history of the unit is available from the Rent Stabilization Board Public Information Unit, 2125 Milvia Street, Berkeley, CA 94704, from 9:00 a.m. to 2:00 p.m., Monday, Tuesday, Thursday and Friday, telephone (510) 981-7368.

Date

Landlord/Manager

(E) Landlords are not required under the Ordinance and/or this Order to increase rents at all or by the full amount of the general adjustment granted in this Order.

(F) If the maximum allowable rent specified under the Ordinance for a rental unit is greater than the rent specified for such unit in the rental agreement, the lower rent specified in the rental agreement shall be the maximum allowable rent until the rental agreement expires. If the maximum allowable rent specified under the ordinance for a rental unit is less than the rent specified for such unit in the rental agreement, the lower rent specified under this chapter shall be the maximum allowable rent.

(G) No rent increase pursuant to this Order shall be effective if the landlord:

(1) Has failed to register any rental unit on the property in accordance with Section 8 of the Ordinance and/or orders or regulations of the Board, including the requirement to file a vacancy registration form at the beginning of a new tenancy commencing on or after January 1, 1996; or

(2) Demands, accepts, receives or retains any payment in excess of the maximum allowable rent for the unit permitted by the Ordinance; or

(3) Has failed to comply, after order of the Board, with any provisions of the Ordinance and/or orders or regulations of the Board concerning the affected rental unit; or

(4) Has failed to bring the rental unit into compliance with the implied warranty of habitability, as demonstrated by an outstanding Notice of Violation from the City's Housing Code Enforcement and/or failure to comply with a Rent Board Hearing Examiner's Decision.

(H) The amount of this general adjustment for which the landlord shall be eligible shall decrease by ten percent (10%) per month for each month beyond October 1, 2022, for which the landlord fails to register. A landlord who is ineligible to raise rents under this general adjustment due to a violation of one or more of the conditions of subsection (G) shall be able to raise rents under this adjustment in future years upon correction of the condition and substantial compliance with the Ordinance in accordance with Civil Code section 1947.7.