



RENT STABILIZATION BOARD

Regular Meeting

Thursday, July 20, 2023 – 7:00 p.m.

School District Board Room – 1231 Addison Street, Berkeley

Teleconference location: 1001 16th Street NW, Washington, D.C. 20036

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION.

For in-person attendees, face coverings or masks that cover both the nose and the mouth are encouraged. If you are feeling sick, please do not attend the meeting in person.

To access this meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device by clicking on this URL: <https://us06web.zoom.us/j/81315510979?pwd=LytGV2RZUDNrNVI4NHRJWkhHcVhSUT09>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "Rename" to rename yourself to be anonymous. To request to speak, use the "Raise Hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-669-900-6833 and enter Webinar ID: 813 1551 0979 and Passcode: 101882. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

To submit a written communication for the Board's consideration and inclusion in the public record, please email amueller@cityofberkeley.info with the Subject line in this format: "RENT BOARD MEETING PUBLIC COMMENT ITEM." Please observe a 150-word limit. **Email comments must be submitted to the email address above by 5:00 p.m. on the day of the meeting in order to be included.**

Please be mindful that this will be a public meeting and all rules of procedure and decorum apply for both in-person attendees and those participating by teleconference or videoconference.

This meeting will be conducted in accordance with Government Code Section 54953 and all current state and local requirements allowing public participation in meetings of legislative bodies. Any member of the public may attend this meeting at the posted location(s). Questions regarding this matter may be addressed to DéSeana Williams, Executive Director, at (510) 981-7368 (981-RENT). The Rent Board may take action related to any subject listed on the Agenda.



COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location. To request disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at (510) 981-6418 (voice) or (510) 981-6347 (TDD) at least three (3) business days before the meeting date.

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.

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Minutes - *Unapproved*

Prior to roll call, General Counsel Brown announced that Commissioner Kelley asked to participate in the meeting remotely under the Emergency Circumstances provisions of the Brown Act due to pain from a recent accident, which requires an authorizing vote.

M/S/C (Johnson/Alpert) AUTHORIZE UNANTICIPATED REMOTE PARTICIPATION FOR COMMISSIONER KELLEY UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(f)(2)(A)(ii). Roll call vote. YES: Alpert, Elgstrand, Johnson, Marrero, Martinac, Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 8-0-0-0.*

*As the commissioner seeking approval for unanticipated remote participation, Commissioner Kelley was not included in the vote.

- Roll call** – Chair Simon-Weisberg called the meeting to order at 7:06 p.m. Aimee Mueller called roll.
Commissioners present: Alpert, Elgstrand, Kelley (via Zoom), Johnson, Marrero, Martinac, Mizell, Walker, Simon-Weisberg (via Zoom)
Staff present: Brown, Dahl, Eberhart, Ehlinger, Kim, Mueller, Williams
- Land Acknowledgment Statement:** The Berkeley Rent Stabilization Board recognizes that the rental housing units we regulate are built on the territory of xučyun (Huchiun- (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley’s landlords and tenants have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley’s incorporation in 1878 and since the Rent Stabilization Board’s creation in 1980. As stewards of the laws regulating rental housing, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.

The Land Acknowledgement Statement was played aloud.

3. Approval of Agenda

M/S/C (Alpert/Johnson) APPROVE THE AGENDA WITH THE FOLLOWING CHANGE: MOVE ACTION ITEM 9.b. TO CONSENT. Roll call vote. YES: Alpert, Elgstrand, Johnson, Kelley, Martinac, Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: Marrero; ABSENT: None. Carried: 8-0-1-0.

4. **Public Comment** – *non*-agendized items. There was one speaker. Joe Liesner spoke about People’s Park and Assembly Bill 1307.

5. **Public Comment** – items on the agenda. There were no speakers.

6. **SPECIAL PRESENTATION**: Eviction Defense Center (EDC) and East Bay Community Law Center (EBCLC) update on Berkeley eviction trends and data during the Eviction Moratorium Transition

Presenters: Anne T. Omura, EDC Executive Director; and Linda Yu, EBCLC Co-Director, Housing Practice

Anne T. Omura and Linda Yu presented and responded to questions from the Board. The Board directed the Executive Director to send a letter to the Presiding Judge of the Alameda County Superior Courts reiterating a previous Rent Board communication asking that eviction cases be moved back to the Oakland courthouse, and to gather information about providing training, involving EDC and EBCLC, for Berkeley police officers on civil standbys for lock outs with no court order.

7. CONSENT ITEMS

Item 9.b. was moved to Consent by a prior vote of the Board.

- a. Approval of the June 15th regular meeting minutes
- b. Recommendation to authorize staff to restore Chair Simon-Weisberg’s stipend deduction for a committee meeting absence on May 15, 2023 (Chair Simon-Weisberg)
- c. Recommendation to authorize staff to restore Commissioner Kelley’s stipend deduction for a committee meeting absence on July 10, 2023 (Vice-Chair Alpert)
- d. Proposal to approve staff recommendations on the following requests for waivers of late registration penalties (Executive Director/Registration Unit Manager)

Ministerial Waivers

Property Address

1709 SHATTUCK
1324 BURNETT

2818 MABEL
1916 STUART
1940 FRANCISCO

M/S/C (Johnson/Alpert) APPROVE ALL CONSENT ITEMS, INCLUDING 9.b., AS WRITTEN. Roll call vote. YES: Alpert, Elgstrand, Johnson, Kelley, Martinac, Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: Marrero; ABSENT: None. Carried: 8-0-1-0.

8. APPEAL – Case No. T-5986 and T-5987 (1619 Walnut Street, Units A & B)

Appearances:

Nan Colleen Noonan, Tenant Appellant and Respondent
Scott Wheeler, Tenant Appellant and Respondent
Noemi Ruelas, Owner Appellant and Respondent

M/S/C (Johnson/Alpert) MODIFY THE HEARING EXAMINER’S DECISION TO GRANT A 20% RENT REDUCTION DUE TO A SUBSTANTIAL BREACH OF THE IMPLIED WARRANTY OF HABITABILITY FOR LACK OF HEAT, TO BE APPLIED FOR THE ENTIRE TIME THE HEARING EXAMINER HAD GRANTED A 10% RENT REDUCTION. ADDITIONALLY, SUSPEND THE LANDLORD’S ABILITY TO TAKE ANNUAL GENERAL ADJUSTMENTS UNTIL THE CONDITIONS HAVE BEEN REMEDIED. Roll call vote. YES: Alpert, Johnson, Kelley, Marrero, Martinac, Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: Elgstrand; ABSENT: None. Carried: 8-0-1-0.

9. ACTION ITEMS

from Board Members, Committees, Executive Director or Staff

Public comment will also be heard prior to the Board’s vote on each action item listed below – There were no speakers.

- a. Chair Update (Chair Simon-Weisberg) – Chair Simon-Weisberg mentioned an article in the New York Times concerning a mediation program in Philadelphia for housing issues.
- b. Recommendation to adopt Resolution 23-22 authorizing the Executive Director to execute a new contract with Public Interest Advocates for legislative advocacy services for a term of two years and an amount not to exceed \$120,000 (Executive Director) – MOVED TO CONSENT BY A PRIOR VOTE OF THE BOARD.

10. INFORMATION, ANNOUNCEMENTS AND ARTICLES/MEDIA

from Board Members, Committees, Executive Director or Staff

ALL ITEMS BELOW WERE BRIEFLY MENTIONED OR DISCUSSED.

UNDERLINED ITEMS HAVE ADDITIONAL COMMENTS.

- a. Eviction Moratorium outreach update – *Verbal* (Public Information Unit Manager)
- b. Copy of July 2023 Eviction Moratorium Transition Period postcard sent to Berkeley landlords and tenants (Executive Director)
- c. “Registration 365” presentation by Amanda Eberhart (Registration Unit Manager)
- d. Year Over Year Comparison of Registration Fees Collected as of July 14, 2023 (Registration Unit Manager)
- e. Copy of Appeal Opinion and California Supreme Court Order denying review in *NCR Properties, LLC v. City of Berkeley et al.* (Legal Unit) – Moved to the next meeting by consensus of the Board.
- f. Updated Appendix B of Rent Board Regulations, Chapter 12 – US Bureau of Labor Statistics CPI Information (Executive Director/Legal Unit)
- g. Updated Appendix C of Rent Board Regulations, Chapter 12 – US Department of Housing and Urban Development Lower Income Limits (Executive Director/Legal Unit)
- h. Updated Commissioner attendance at Board and Committee meetings through the 2nd quarter of 2023 (Board Secretary)
- i. Date to submit agenda topics/items for August’s regular Rent Board meeting: **Monday, August 7th by 5:00 p.m.** (Board Secretary)

11. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget & Personnel Committee (Commissioner Walker, Chair)
Next regularly-scheduled meeting: To Be Announced (TBA)
- b. Eviction/Section 8/Foreclosure Committee (Commissioner Elgstrand, Chair) –
Committee Chair Elgstrand noted that the Committee reviewed the Foreclosure/Distressed Property report and provided information on how Rent Board staff monitor and inform tenants of their rights when there are potential foreclosures.
Next regularly-scheduled meeting: Tuesday, July 18th at 5:00 p.m.

July 18th agenda
- c. Legislation, IRA/AGA & Registration Committee (LIRA Committee)
(Commissioner Kelley, Chair) – Committee Chair Kelley previewed the Committee’s upcoming work, and General Counsel Brown mentioned that the

next meeting is Monday, July 24.
Next regularly-scheduled meeting: TBA

- d. Outreach Committee (Vice-Chair Alpert, Chair) – Committee Chair Alpert shared that the final tenant survey report should be on the Rent Board’s September meeting agenda.
Next regularly-scheduled meeting: Tuesday, July 18th at 6:00 p.m.

July 18th agenda

- e. 4 x 4 Joint Task Force Committee on Housing: City Council/Rent Board (Mayor Arreguín and Chair Simon-Weisberg, Co-Chairs)
Next regularly-scheduled meeting: TBA
- f. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District (Chair TBA) – Commissioner Marrero shared a few items of interest the Committee may be looking into in the future.
Next meeting date: TBA
- g. Ad Hoc Committee on Environmental Sustainability (Commissioner Martinac, Chair) – Committee Chair Martinac reported that the Committee is developing their scope of work, and she is meeting with managers of some other City departments to assess opportunities for collaboration.
Next meeting date: TBA

June 28th agenda

- h. Updates and Announcements –Chair Simon-Weisberg cancelled the August Regular Meeting. Commissioner Alpert noted that in Montgomery County, Maryland, the Board of Supervisors adopted rent control with vacancy control.
- i. Discussion of items for possible placement on future agenda – Reclassify the Ad Hoc Committee on Environmental Sustainability as a regular committee.

12. ADJOURNMENT

M/S/C (Alpert/Mizell) ADJOURN THE MEETING. Roll call vote. YES: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac, Mizell, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.

The meeting adjourned at 11:11 p.m.