

## Notice to Quit Requirements for Owner Move-In Evictions BERKELEY RENT BOARD

The Berkeley Rent Stabilization and Eviction for Good Cause Ordinance requires that elements of the good cause for eviction shall be stated in writing in the Notice to Quit to the tenant. The following are essential elements for an owner/relative occupancy eviction under Section 13.76.130(A)(9) of the Berkeley Rent Ordinance, **all of which** must be stated in the Notice to Quit. The Notice to Quit must be a Sixty (60) Day Notice if the tenant resided in the unit for a year or more, and a Thirty (30) Day Notice if tenancy for less than a year:

1. The landlord is an owner of record holding at least 50% interest in the property.
2. The landlord is seeking in good faith with honest intent and without ulterior motive to recover possession for use as the principal residence of the landlord, the landlord's spouse or registered domestic partner, child or parent for a period of at least thirty-six months.
3. The landlord has notified the tenant in writing of any Berkeley residential properties in which s/he has 10% or greater ownership interest.
4. The landlord has notified the tenant of the existence and availability of relocation assistance under Section 13.76.130A.9.g and the existence of tenant protections for families with minor children.
5. The name of the intended occupant and relationship to the landlord must be stated.
6. No comparable unit in the property was vacant and available for the 90-day period prior to the date of the Notice to Quit, or no comparable unit is or will be vacant and available prior to the trial in the case.
7. The landlord is in compliance with the implied warranty of habitability.
8. The landlord is in compliance with Sections 13.76.100 (Rent Ceilings) and 13.76.080 (Rent Registration) of the Berkeley Ordinance.

If the above elements are not stated in the Notice to Quit or are judged to be not true, the Court may find the Notice to be defective. For questions concerning serving Notices and Court proceedings, parties should contact an attorney.

The landlord must file with the Rent Stabilization Board a copy of the notice to quit or notice of termination, and of the summons and complaint, within ten days of the date they are given to the tenant(s).



**Berkeley Rent Board**

Date: January 4, 2023

Dear Tenant and Landlord:                      RE: Owner Move-In Evictions

The Rent Board has received notice that the landlord intends to terminate the tenancy in the above unit so that the owner or a relative of the owner can move in. This letter explains provisions in Berkeley law affecting the obligations of the landlord and the rights of the tenant where there is an owner or relative move-in. These rules apply to all units subject to the Good Cause provisions of the Rent Ordinance, which includes all units subject to the registration requirements of the Rent Ordinance, Section 8 units, newly constructed units, single-family homes and condominiums.

**If an owner wants to terminate a tenancy in order to move himself, spouse, registered domestic partner, mother, father, son, or daughter into a unit, the landlord must comply with the following:**

1. The landlord must be at least a 50% owner of record of the unit.
2. The landlord must notify the tenant, at the time of giving notice terminating the tenancy, of the landlord’s ownership interest in any residential properties in Berkeley where such interest is 10% or greater.
3. The landlord must notify the tenant of the existence of relocation assistance and the existence of tenant protections for families with minor children.
4. The landlord must offer the tenant any unit in Berkeley where the landlord has 10% or greater ownership interest that becomes available before the tenant vacates his or her unit.
5. The landlord must provide an \$18,011 relocation assistance payment to any tenant household that has resided in the unit for at least one year. This \$18,011 must be deposited with the rent board within 10 days of service of the notice upon the tenant. The landlord may be required to pay an additional \$6,003 in relocation assistance to tenant households that qualify as low-income or include disabled or elderly tenants, minor children or tenancies that began prior to January 1, 1999. A household in Alameda County is considered “low-income” if the annual income is less than:

1 person	\$74,200	5 persons	\$114,500
2 persons	\$84,800	6 persons	\$123,000
3 persons	\$95,400	7 persons	\$131,450
4 persons	\$106,000	8 persons	\$139,950

6. The landlord or relative must move into the unit within three months of the termination and must live in the unit for 36 months.
7. The landlord must give the terminated tenant the right to re-occupy the unit when the landlord or relative moves out. There is no time limit on this requirement.

## **Evictions for owner/relative move-in are prohibited in the following circumstances:**

1. The landlord owns less than a 50% recorded interest in the property.
2. The landlord owns an available (currently or within the last 90 days) comparable unit in Berkeley.
3. Where the landlord has at least a 10% ownership interest in 5 or more residential rental units in Berkeley, s/he may not evict a tenant who has lived on the property for 5 or more years and wishes to remain in the unit.\*
4. Where the landlord has at least a 10% ownership interest in 4 or more residential units in Berkeley, s/he may not evict a tenant who is at least 60 years old or disabled, has lived on the property for 5 or more years, and wishes to remain in the unit.\*
5. Where an owner has recovered possession for owner move-in by terminating a tenancy, then no other current or future landlords may recover possession for owner move-in by terminating a tenancy in any other rental unit on the property.
6. Where a tenant in the rental unit has resided in the unit for twelve months or more and has a custodial or family relationship with a minor child who is residing in the unit and the effective date of the notice of termination falls during the school year.

### **\*Exceptions:**

The eviction prohibitions described in #3 and #4 do not apply where all the landlord's units in Berkeley are occupied by tenants described in #3 and #4 and (a) the landlord's relative is at least 60 years old or disabled or (b) the landlord to move in has owned the property for at least five years and is at least 60 years old or disabled.

**IMPORTANT:** The information in this packet is not a substitute for the text of state laws or the local Rent Ordinance. Processes for termination of tenancy and eviction are established in state laws. For the convenience of the parties, this letter summarizes the additional local requirements that have been added into the state procedure. The purpose of this sheet is to give parties an overview of the relevant provisions of the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance.

Landlords and tenants who are unfamiliar with the laws should seek legal advice. If you are involved in an action to terminate a tenancy for owner or relative move-in, this sheet should be used to focus your discussion with your legal advisor. Self-help law books on evictions might also be helpful.

The Rent Stabilization Program's counselors are prepared to discuss this matter with you. Additional information is also available in our office or on the Rent Board's website at [www.cityofberkeley.info/rent](http://www.cityofberkeley.info/rent).

Sincerely,



DéSeana Williams, Executive Director  
Berkeley Rent Stabilization Board



Berkeley Rent Board

**NOTICE OF ELIGIBILITY FOR ADDITIONAL RELOCATION ASSISTANCE**  
(BMC Sections 13.76.130 A.9 (p)(ii))

I, \_\_\_\_\_ ,  
(Name of Tenant)

tenant at the property located at \_\_\_\_\_  
(Property Site Address)

assert the following :

I will have lived in this unit at least one year prior to the expiration of the owner move-in notice, and am eligible for an additional relocation payment for the following reason

- a member of my household is disabled.
- a member of my household is sixty years of age or older.
- a member of my household is a minor child.
- the tenancy began before January 1, 1999.
- my household income is below the limits described below:

**FROM: TENANT**  
**TO: LANDLORD & RENT BOARD**

Household Income Limits for 2022								
Persons per Household:	1	2	3	4	5	6	7	8
Income no greater than:	\$74,200	\$84,800	\$95,400	\$106,000	\$114,500	\$123,000	\$131,450	\$139,950

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tenant Signature

**ATTENTION:** You must mail or deliver in person one copy of this Notice to **your landlord** and one copy to the Rent Board **within 30 days of the date you received the notice of termination of tenancy.** Please complete the accompanying Proof of Service and return it to the Rent Board after you serve the Notice on your landlord.

**PROOF OF SERVICE**

I am a resident of \_\_\_\_\_ County. I am and was at the time of the service hereinafter mentioned over the age of eighteen years and not a party in the below entitled action. My residence or business address is \_\_\_\_\_.

On the date entered below, I served one copy of the attached **Notice of Eligibility for Additional Relocation Assistance**

- by delivering in person to the **below named individual(s) and agency(ies)**:
- by certified mail, return receipt requested, by placing a true copy of the documents in a sealed envelope and then placing the envelope with postage fully prepaid in a United States Post Office mailbox **addressed as follows**:
- by regular mail by placing a true copy of the documents in a sealed envelope and then placing the envelope with postage fully prepaid in a United States Post Office mailbox **addressed as follows**:

**\*\*\* LIST NAMES and ADDRESSES OF PARTIES SERVED\*\*\***

Landlord: \_\_\_\_\_  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
(City, State Zip Code) \_\_\_\_\_

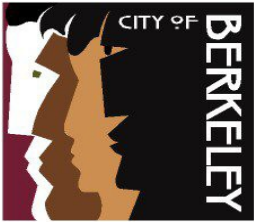
Berkeley Rent Stabilization Board  
2125 Milvia Street  
Berkeley, CA 94704

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

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME



# Notice of Interest in Renewing Tenancy

## BERKELEY RENT BOARD

BMC section 13.76.130.A.(9)(o)

To: \_\_\_\_\_  
(Owner)

Property Address: \_\_\_\_\_

I wish to be contacted should the rental unit at the above address be offered for rent for residential purposes subsequent to the owner/family occupation. An offer to renew my tenancy should be sent to me at the following address:

First Address	Second Address

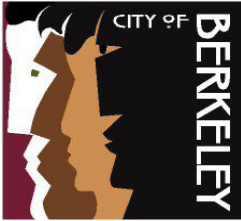
\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Note: The owner should be notified of any subsequent changes of address. You may also inform the Rent Board of your address and the Board will notify you if the property is again offered for rent.**



**Deposit of Owner Move-In Relocation Benefits  
& Challenge of Eligibility to Receive Benefits**  
**BERKELEY RENT BOARD**

**Berkeley Rent Board Account Number: 440-0000-227-2702**

Attached is a check in the amount of \$18,011.

Please deposit these monies into an escrow account as relocation benefits for the tenants in unit:

\_\_\_\_\_.

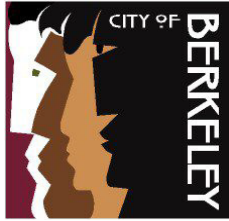
*Optional:*

\_\_\_\_\_ No tenant in this household has resided in the unit for at least one year. I hereby challenge the eligibility of this household to receive relocation benefits.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME



# Owner/Relative Move-In Evictions of the Berkeley Rent Ordinance

## Berkeley Rent Ordinance Section 13.76.130A.9

### 9. Owner Move-in Evictions.

a. The landlord seeks in good faith with honest intent and without ulterior motive to recover possession for his/her own use and occupancy as his/her principal residence for a period of at least 36 consecutive months; or

b. For the use and occupancy as the principal residence by the landlord's spouse or by the landlord's child, or parent for a period of at least 36 consecutive months.

c. For the purposes of this subsection (13.76.130A.9.), the term landlord shall be defined as the owner of record, as of the time of giving of a notice terminating tenancy, and at all times thereafter to and including the earlier of the tenant's surrender of possession of the premises or the entry of a judgment of a court of competent jurisdiction awarding possession of the premises to the landlord, holding at least a 50% interest in the property and shall not include a lessor, sublessor, or agent of the owner of record.

d. All notices terminating tenancy pursuant subsection 13.76.130A.9 shall include the following: the existence and potential availability of relocation assistance under subsection 13.76.130A.9.g; the existence of tenant protections for families with minor children as defined in subsection 13.76.130A.9.k; the name and relationship of any qualified relative for purposes of subsection 13.76.130A.9b; and the landlord's ownership interest in any residential properties in the City of Berkeley where such interest, in any form whatsoever, is ten percent (10%) or greater. The landlord shall, within ten days of giving notice, file a copy of the notice terminating tenancy with the Rent Board.

e. The landlord may not recover possession under this subsection (13.76.130A.9.) if a comparable unit, owned by the landlord in the City of Berkeley, was, at the time of the landlord's decision to seek to recover possession of the rental unit, already vacant and available, or if a comparable unit, owned by the landlord in the City of Berkeley, thereafter becomes vacant at any time until the earlier of the tenant's surrender of possession of the premises or the entry of a judgment of a court of competent jurisdiction awarding possession of the premises to the landlord. In an action by or against the tenant, evidence that a comparable unit was vacant and available within ninety days prior to the date of a notice terminating the tenant's tenancy shall create a presumption that such unit was vacant and available at the time of the landlord's decision to seek to recover possession of the premises. "Presumption" means that the court must find the existence of the presumed fact unless and until the contrary is proven by a preponderance of the evidence.

f. The landlord shall offer any non-comparable unit owned by the landlord to the tenant if a non-comparable unit becomes available before the recovery of possession of the tenant's unit at a rate based on the rent the tenant is paying with an upward or downward adjustment based on the condition, size, and other amenities of the replacement unit. Disputes concerning the initial rent for the replacement unit shall be determined by the Rent Board.

g. Where a landlord recovers possession of a unit under subsection 13.76.130A.9, the landlord is required to provide standard relocation assistance to tenant households where at least one occupant has resided in the unit for one year or more in the amount of \$15,000. The landlord is required to provide an additional \$5,000 relocation assistance to tenant households that qualify as low-income; or include disabled or elderly tenants; minor children; or tenancies which began prior to



January 1, 1999. The relocation fees set forth above shall be increased in accordance with the rules set forth in subsection 13.76.130A.9.h below. The procedures for payment of this relocation assistance are set forth below in subsection 13.76.130A.9.p.(i) through (iv). The following definitions apply for any tenant households evicted for owner move-in under subsection 13.76.130A.9:

(i) "low-income tenants" means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, or as otherwise defined in Health and Safety Code Section 50079.5.

(ii) a person is "disabled" if he/she has a physical or mental impairment that limits one or more of a person's major life activities within the meaning of the California Fair Housing and Employment Act (Government Code § 12926).

(iii) "elderly" is defined as sixty (60) years of age or older.

(iv) "minor child" means a person who is under 18 years of age.

(v) "tenancy began prior to January 1, 1999" is a tenancy where an "original occupant" (as defined by Berkeley Rent Board Regulation) still permanently resides in the rental unit.

h. Effective January 1 of each year beginning in 2018, the fees set forth above in subsection 13.76.130A.9.g., may be increased in an amount based on the Consumer Price Index - All Urban Consumers in the San Francisco-Oakland-San Jose Region averaged for the 12-month period ending June 30, of each year, as determined and published by United States Department of Labor. Any increase shall be published by the Board on or before October 31<sup>st</sup> of each year.

i. It shall be evidence that the landlord has acted in bad faith if the landlord or the landlord's qualified relative for whom the tenant was evicted does not move into the rental unit within three months from the date of the tenant's surrender of possession of the premises or occupy said unit as his/her principal residence for a period of at least 36 consecutive months.

j. Once a landlord has successfully recovered possession of a rental unit pursuant to subsection 13.76.130A.9.a., then no other current or future landlords may recover possession of any other rental unit on the property pursuant to subsection 13.76.130A.9.a. It is the intention of this subsection that only one specific unit per property may be used for such occupancy under subsection 13.76.130A.9.a and that once a unit is used for such occupancy, all future occupancies under subsection 13.76.130A.9.a must be of that same unit.

k. A landlord may not recover possession of a unit from a tenant under subsection 13.76.130A.9 if any tenant in the rental unit has a custodial or family relationship with a minor child who is residing in the unit, the tenant with the custodial or family relationship has resided in the unit for 12 months or more, and the effective date of the notice of termination of tenancy falls during the school year. The term "school year" as used in this subsection means the first day of instruction for the Fall Semester through the first day of the month following the last day of instruction for the Spring Semester, as posted on the Berkeley Unified School District website for each year.

(i) For purposes of subsection 13.76.130A.9.k, the term "custodial relationship" means that the person is a legal guardian of the child, or has a caregiver's authorization affidavit for the child as defined by Section 6550 of the California Family Code, or that the person has provided full-time custodial care of the child pursuant to an agreement with the child's legal guardian or court-recognized caregiver and has been providing that care for at least one year or half of the child's lifetime, whichever is less. The term "family relationship" means that the person is the biological or adoptive parent, grandparent, brother, sister, aunt or uncle of the child, or the spouse or domestic partner of such relations.

l. A landlord may not recover possession of a unit from a tenant under subsection 13.76.130A.9 if any tenant in the rental unit:

(i) Is 60 years of age or older and has been residing on the property for five years or more; or

(ii) Is disabled and has been residing on the property for five years or more; or

(iii) Has resided on the property for five years or more and the landlord has a ten percent (10%) or greater ownership interest, in any form whatsoever, in five or more residential rental units in the City of Berkeley.

m. A tenant who claims to be a member of one of the classes protected by subsection 13.76.130A.9.l must submit a statement, with supporting evidence, to the landlord. A tenant's failure to submit a statement at any point prior to the trial date of an unlawful detainer action for possession of the tenant's unit shall be deemed an admission that the tenant is not protected by subsection 13.76.130A.9.l. A landlord may challenge a tenant's claim of protected status by raising it as an issue at trial in an unlawful detainer action for possession of the tenant's unit.

n. The provisions of subsection 13.76.130A.9.l shall not apply to the following situations:

(i) Where a person is the owner of three or fewer residential units in the City of Berkeley and has no greater than a nine percent (9%) ownership interest in any other residential unit in the City of Berkeley; or

(ii) Where each residential rental unit in Berkeley in which the landlord holds an ownership interest of ten percent (10%) or greater is occupied by a tenant otherwise protected from eviction by subsection 13.76.130A.9.l and the landlord's qualified relative who is seeking possession of a unit subject to subsection 13.76.130A.9.b is 60 years of age or older or is disabled as defined in subsection 13.76.130A.9.l(ii) above; or

(iii) Where each residential rental unit in Berkeley in which the landlord holds an ownership interest of ten percent (10%) or greater is occupied by a tenant otherwise protected from eviction by subsection 13.76.130A.9.l, the landlord has owned the unit for which possession is being sought subject to subsection 13.76.130A.9.a for five years or more and is 60 years of age or older or is disabled as defined in subsection 13.76.130A.9.l(ii).

o. Where a landlord recovers possession under Subsection 13.76.130A.9, the tenant must be given the right of first refusal to re-occupy the unit upon its next vacancy.

p. When a landlord is required to provide a relocation assistance payment subject to subsection 13.76.130A.9.g, the payment shall be divided among the tenants occupying the rental unit at the time of service of the notice to terminate tenancy.

(i) Within ten days of service of a notice terminating tenancy under subsection 13.76.130A.9, the landlord shall deposit the standard relocation assistance (for households where an occupant has resided one year or more) with the City or its designated agent to be held in escrow. Within ten days after the funds

are deposited into escrow, the City shall release the standard relocation assistance to the tenant household, unless the landlord notifies the Rent Stabilization Program in writing that he/she disputes the tenant's eligibility to receive such assistance.

(ii) In order to claim entitlement to additional relocation assistance under subsection 13.76.130A.9.g, a tenant must notify the landlord and the Rent Stabilization Program

in writing that he/she is claiming low-income, disabled, elderly, tenant with minor child status, or a claim that the tenancy began prior to January 1, 1999 (hereinafter "entitlement to additional relocation assistance") per subsection 13.76.130A.9.g within 30 days of filing of notice of termination of tenancy with the Rent Stabilization Program. The landlord shall deposit the additional relocation payment with the Rent Stabilization Program or its designated agent to be held in escrow for any tenant household who claims entitlement to additional relocation assistance within ten days after such notice claiming entitlement to additional relocation assistance is mailed. Within ten days after the funds are deposited into escrow, the Rent Stabilization Program shall authorize release the relocation assistance to the tenant household that claims entitlement to additional relocation assistance, unless the landlord notifies the Rent Stabilization Program in writing that he/she disputes the tenant's eligibility to receive such assistance.

(iii) When a tenant household's eligibility to receive standard or additional relocation assistance as described in subsection 13.76.130A.9.g is disputed, either party may file a Rent Board petition requesting a determination of eligibility or file a claim in a court of competent jurisdiction. The Rent Stabilization Program shall release disputed relocation assistance funds to either the tenant or the landlord upon receipt of either a written agreement by both the landlord and the affected tenant, an order of a court of competent jurisdiction, or an order of a City or Rent Board hearing examiner issued pursuant to a petition process conducted in accordance with applicable Rent Board Regulations.

(iv) The landlord may rescind the notice of termination of tenancy prior to any release of relocation payment to the tenants by serving written notice stating such rescission on the tenants. In such instance, the relocation payment shall be released to the landlord. Subsequent to the release of any relocation payment to the tenants, the landlord may rescind the notice of termination of tenancy only upon the written agreement of the tenants to remain in possession of the rental unit. If the tenants remain in possession of the rental units after service of a landlord's written notice of rescission of the eviction, the tenants shall provide an accounting to the landlord of the amount of the relocation payment expended for moving costs, return to the landlord that portion of the relocation payment not expended for moving costs, and assign to the landlord all rights to recover the amount of relocation payment paid to third parties. If a rescission occurs under this subsection, the tenant(s) shall continue the tenancy on the same terms as before the notice was served.

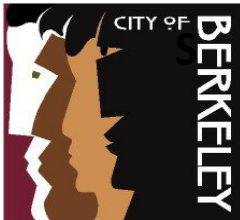
(v) Where a landlord has served a notice of termination of tenancy on a tenant prior to the date that this amendment takes effect and the notice of termination of tenancy has not expired, the landlord shall deposit the full relocation payment with the City or its designated agent to be held in escrow for the tenants if the tenants have not vacated the rental unit as of the effective date of this amendment, and the landlord shall pay the full relocation payment to the tenants if the tenants have vacated the rental unit as of the effective date of this amendment. Said deposit in escrow or payment to the tenants shall be made within ten days of the effective date of this amendment.

(vi) Failure of the landlord to make any payment specified herein shall be a defense to any action to recover possession of a rental unit based upon the landlord's termination of tenancy notice pursuant to this subsection (13.76.130A.9). In addition, if the tenants of a rental unit have vacated the unit as a result of a notice of termination of tenancy pursuant to this subsection (13.76.130A.9), and the landlord fails to make any payment specified herein, the landlord shall be liable to the tenants for three times the amount of the payment as well as reasonable attorney fees.

q. A tenant who prevails in an action brought under this subsection (13.76.130A.9), in addition to any damages and/or costs awarded by the court, shall be entitled to recover all reasonable attorney's fees incurred in bringing or defending the action.

r. At least twice annually, Rent Board staff shall report to the Rent Board regarding the occupancy status of units possession of which has been recovered pursuant to this subsection (13.76.130A.9) within the prior 36 months.

s. If any provision or clause of this subsection (13.76.130A.9) or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses, and to this end the provisions and applications of this subsection are severable.



## State Law Provision for Treble Damages following an Eviction Based on a Fraudulent Intent to Occupy

### BERKELEY RENT BOARD

California Civil Code 1947.10.

(a) After July 1, 1990, in any city, county, or city and county which administers a system of controls on the price at which residential rental units may be offered for rent or lease and which requires the registration of rents, any owner who evicts a tenant based upon the owner's or the owner's immediate relative's intention to occupy the tenant's unit, shall be required to maintain residence in the unit for at least six continuous months. If a court determines that the eviction was based upon fraud by the owner or the owner's immediate relative to not fulfill this six-month requirement, a court may order the owner to pay treble the cost of relocating the tenant from his or her existing unit back into the previous unit and may order the owner to pay treble the amount of any increase in rent which the tenant has paid. If the tenant decides not to relocate back into the previous unit, the court may order the owner to pay treble the amount of one month's rent paid by the tenant for the unit from which he or she was evicted and treble the amount of any costs incurred in relocating to a different unit. The prevailing party shall be awarded attorney's fees and court costs.

(b) The remedy provided by this section shall not be construed to prohibit any other remedies available to any party affected by this section.