



RENT STABILIZATION BOARD
Special Meeting
Monday, April 11, 2022
12:00 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Government Code Section 54953(e)(3), City Council Resolution 70,030-N.S., and City of Berkeley Rent Stabilization Board (Rent Board) Resolution 21-29, this meeting of the **Rent Board** will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Resolutions and the findings contained therein that the spread of COVID-19 continues to be a threat to the public health and that holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies. **Therefore, there will not be a physical meeting location available.**

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/84468156664?pwd=NzIEdklqQy8rRS9TWmRwbXRiekFEZz09>. 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 1-408-638-0968 and enter Meeting ID: 844 6815 6664 and Passcode: 145495. 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 an e-mail comment, email amueller@cityofberkeley.info with the Subject line in this format: "RENT BOARD MEETING PUBLIC COMMENT ITEM." Please observe a 150-word limit. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 10:00 a.m. on the day of the meeting in order to be included.**

Please be mindful that this meeting will be recorded, and all other rules of procedure and decorum will apply for Rent Board meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with Government Code Section 54953, 54956, and all current state and local requirements allowing public participation in meetings of legislative bodies. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to DéSeana Williams, Executive Director, at (510) 981-7368. The Rent Board may take action related to any subject listed on the Agenda.

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AGENDA

*Times allotted for each item are approximate and may be changed at the Board's discretion during the course of this meeting.

1. **Roll call** – 1 min.*
2. **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.
3. **Approval of Agenda** – 1 min.*
4. **Public Comment** – 2 min. per speaker for *non*-agendized items*
5. **Public Comment** – 2 min. per speaker for items on the agenda*
6. **ACTION ITEMS**
from Board Members, Committees, Executive Director or Staff
 - a. Discussion and possible action to have the Board take a position on Assembly Bill (AB) AB-2469 Housing: Statewide Rental Registry (Chair Simon-Weisberg & Vice-Chair Alpert) – 20 min.*
 - b. Discussion and possible action to have the Board take a position on AB-2386 Planning and zoning: tenancy in common subject to an exclusive occupancy agreement (Chair Simon-Weisberg & Vice-Chair Alpert) – 20 min.*
 - c. Discussion and possible action to adopt proposed Resolution 22-05 to authorize drafting letters to express the Board's positions on AB-2469 and AB-2386 (Chair Simon-Weisberg & Vice-Chair Alpert) – 5 min.*

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-2386 Planning and zoning: tenancy in common subject to an exclusive occupancy agreement.** (2021-2**As Amends the Law Today**

SECTION 1. *Section 65850.10 is added to the Government Code, to read:*

65850.10. *(a) For purposes of this section, the following definitions apply:*

(1) "Design" has the same meaning as in Section 66418.

(2) "Improvement" has the same meaning as in Section 66419.

(3) "Tenancy in common subject to an exclusive occupancy agreement" means a development in which an undivided interest in land is coupled with the right of exclusive occupancy of any portion located thereon.

(b) The legislative body of a local agency may regulate by ordinance the design and improvement of any multifamily property held under a tenancy in common subject to an exclusive occupancy agreement, including by requiring instruments governing the operation and maintenance of common areas.

(c) Notwithstanding this section, a local agency shall not do either of the following:

(1) Prohibit the ability to hold land by tenancy in common subject to an exclusive occupancy agreement.

(2) Limit the area within a property for which a right to exclusive occupancy may be granted.

(d) This section does not supersede any provision of Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1.

ASSEMBLY BILL 2386 (BLOOM)

TENANCY IN COMMON CONVERSIONS

SUMMARY

AB 2386 allows local governments to close a loophole in real estate purchases that have led to speculator purchases of multi-family housing and the displacement of long-term tenants. The measure allows local agencies to regulate the conversion of multi-family units to tenancy in common developments, ensuring orderly community developments and increasing transparency with the conversion process.

EXISTING LAW

Existing law grants cities the right to regulate conversions of multi-family residential rental properties to common interest developments, such as condominiums, stock cooperatives, community apartment projects and planned developments through the authority vested by the Subdivision Map Act. The Act allows cities to facilitate orderly community development, coordinate planning and assure proper improvements are made.

Existing law also defines common interest developments as projects in which the developer records its intent to create the development. If the developer does not make a formal recordation, the project does not fall within the definition of a common interest development, and as such, is not required to follow the state and local regulations around common interest development formation (e.g. condo conversions).

THE PROBLEM

Tenancy in common is a type of shared ownership in which each person has the exclusive right to occupy their unit and shares ownership rights of the property with two or more people. This type of ownership model is often used by family members residing on the same property. If used for the conversion of duplexes and triplexes, tenancy in common offers a unique and affordable option for homeownership.

THE PROBLEM Cont.

Unfortunately, tenancy in common conversions have been used as a loophole in real estate transactions to effectively turn multi-family housing into condominiums, which in turn encourages speculator purchases and the displacement of long-term tenants. Speculators are targeting existing multi-family properties and advertising the sale of unit ownership to prospective buyers looking to become homeowners in expensive markets. Because the tenancy in common structure is not defined as a common interest development in state law, speculators are not required to adequately disclose the state of the property, the laws protecting existing tenants, and the potential risks with the transaction— protections and guidelines that are typical of condominium conversions.

THE SOLUTION

AB 2386 closes the loophole in state law that has allowed speculators to circumvent state and local laws that regulate common interest development conversions. AB 2386 would not prohibit tenancy in common conversions or limit the area owners would occupy. The measure would simply allow local agencies to create parameters to such conversions, similar to the requirements laid out in the Subdivision Map Act. AB 2386 will ensure speculator purchases do not grow rampant amongst communities with long-term tenants, ensure those interested in buying an interest receive the proper disclosure and protections, and support the orderly development of local communities.

SUPPORT

City of West Hollywood (Sponsor)

Public

RESOLUTION 22-05**BERKELEY ELECTED RENT STABILIZATION BOARD TAKES POSITIONS ON ASSEMBLY BILLS 2386 AND 2469**

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

WHEREAS, the Berkeley Rent Board has a fundamental interest in supporting all legislation that protects the interests of tenants, prevents unnecessary displacement of vulnerable members of the community, and promotes stabilization of neighborhoods; and

WHEREAS, the Board often takes a position on state legislation that affects the state's and Berkeley's ability to promote safe and affordable housing policies; and

WHEREAS, currently, the legislature is considering two bills – AB-2386 (Planning and Zoning: tenancy in common subject to an exclusive occupancy agreement) and AB-2469 (Housing: Statewide Rental Registry) – that would affect landlords and tenants in Berkeley and all California Cities; and

WHEREAS, the Board has an interest in communicating a position on these bills in the hopes that state legislators will protect the interests of affordable housing.

NOW, THEREFORE, BE IT RESOLVED that the Berkeley Rent Board authorizes Board Chair Leah Simon-Weisberg and/or the Board's legislative advocate, Brian Augusta, to draft and sign letters to the various sponsors of AB-2386 and AB-2469 that relay the Board's positions as expressed in today's meeting.

Dated: April 11, 2022

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