



Rent Stabilization Board

RENT STABILIZATION BOARD
Regular Meeting
Thursday, September 15, 2022
7:00 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/84816025186?pwd=cU5laFFxdTFNRTFZaFdMYzFTcERxQT09>. 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 Meeting ID: 848 1602 5186 and Passcode: 262696. 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, send it to 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 5:00 p.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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7:00 p.m.

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. **SPECIAL ORDER OF BUSINESS** – Presentation of honorary resolution to former Rent Board Staff Attorney, Matthew Siegel, for his more than 27 years of service

7. **CONSENT ITEMS** – 1 min.*
 - a. Approval of the July 21, 2022 regular meeting minutes

 - b. Proposal to approve staff recommendations on the following requests for waivers of late registration penalties (Executive Director/Registration Unit Manager)

Ministerial Waivers
Property Address

2390 MCGEE
1922 WOOLSEY
2171 ALLSTON
2130 BROWNING
1730 HIGHLAND #4
3025 DANA ST
2016 9TH
1409 CYPRESS
2803 REGENT
1902-06 RUSSELL

Discretionary Waivers

<u>Waiver No.</u>	<u>Property Address</u>
W5050	2918 STANTON

8. APPEAL – 7:30 p.m.**

***This appeal will not be heard before 7:30 p.m. but may be heard any time thereafter.*

Case No. T-5946 (2226 7th Street, Unit D)

Landlord Gershon Luria (“Landlord”) filed an appeal of a hearing decision granting in part and denying in part Tenant Deloris O’Neal’s (“Tenant”) Petition for Individual Rent Adjustment (“petition”), seeking a rent reduction due to certain claimed substandard conditions of the rental unit located at 2226 7th Street, Unit D, Berkeley, California 94710 (“premises”).

On appeal, Landlord claims that: (1) the hearing examiner improperly applied Regulation 1269, (2) Tenant failed to meet her burden of proof, (3) Tenant and Tenant witnesses lacked credibility, and (4) the hearing examiner was biased against Landlord. A review of the record shows that the hearing examiner correctly applied Regulation 1269 and that his decision is supported by substantial evidence. The appeal repeats meritless arguments and testimony previously submitted and fails to substantiate its claim of bias. The decision of the hearing examiner should be affirmed.

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 – 1 min. per speaker.

- a. Chair Update (Chair Simon-Weisberg) – 5 min.*

10. INFORMATION, ANNOUNCEMENTS AND ARTICLES/MEDIA

from Board Members, Committees, Executive Director or Staff

NOTE: The Board may vote to move Information Items to the Action calendar.

- a. Screening of the film, “Push!” at the Grand Lake Theater in Oakland on September 26, 2022 at 6:30 p.m. – *Verbal* (Chair Simon-Weisberg) – 3 min.*
- b. Update regarding Ellis Act prohibition in the Eviction Moratorium and update regarding recent Ellis Eviction cases filed in Berkeley – *Verbal* (General Counsel) – 3 min.*
- c. Elevator Ordinance Referral item from the Commission on Disability (General Counsel) – 2 min.*
- d. Update on Rent Board staff outreach at National Night Out on August 2, 2022 – *Verbal* (Executive Director) – 1 min.*
- e. Update on Rent Board staff outreach at the Solano Stroll on September 11, 2022 – *Verbal* (Executive Director) – 1 min.*
- f. July 27, 2022 *Berkeleyside* article by Manuela Tobias titled, “This new website will help you respond to an eviction notice” (Executive Director) – 1 min.*
<https://www.berkeleyside.org/2022/07/27/website-california-tenants-eviction>
- g. August 10, 2022 *The Daily Californian* article by Rae Wymer titled, “‘It was pretty brutal’: Tenants share experiences renting in Berkeley” (General Counsel) – 1 min.*
<https://www.dailycal.org/2022/08/10/it-was-pretty-brutal-tenants-share-experiences-renting-in-berkeley/>
- h. Date to submit agenda topics/items for October’s regular Rent Board meeting: **Friday, October 7th at 5:00 p.m.** NOTE: This is a hard deadline and will be enforced.

Information Items carried over from the June 16, 2022 regular Rent Board meeting:

- i. April 28, 2022 Owner Move-in Eviction Tracking Report (January 2019 - December 2021) (Eviction/Section 8/Foreclosure Committee & Executive Director) – 2 min.*
- j. Rent Board’s participation in the 35th Annual Berkeley Juneteenth Festival on Sunday, June 19th from 11:00 a.m. to 7:00 p.m. – *Verbal* (Executive Director) – 2 min.*

- k. Update on the Rent Board’s presentation at the May 20, 2022 “Rent Stabilization: Lessons Learned from Implementing Rent Stabilization Policies” webinar (Minneapolis/St. Paul) from 9:00 a.m. - 11:00 a.m. Pacific Time – *Verbal* (General Counsel) – 2 min.*

11. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget and Personnel Committee (Commissioner Chang, Chair) – 5 min.*
Next regularly-scheduled meeting: Monday, Sept. 12th at 5:30 p.m.

September 12th agenda

- b. Eviction/Section 8/Foreclosure Committee (Commissioner Mendonca, Chair) – 5 min.*
Next regularly-scheduled meeting: Thursday, Sept. 22nd at 5:30 p.m.

July 28th agenda

- c. Legislation, IRA/AGA & Registration Committee (LIRA Committee) (Commissioner Kelley, Chair) – 5 min.*
Next regularly-scheduled meeting: TBA

- d. Outreach Committee (Commissioner Laverde, Chair) – 5 min.*
Next regularly-scheduled meeting: Wednesday, Sept. 21st at 5:30 p.m.

August 10th agenda

- e. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District (Chair TBA) – 3 min.*
Regularly-scheduled meeting date: TBA

- f. 4 x 4 Joint Task Force Committee on Housing: City Council/Rent Board – 5 min.*
(Mayor Arreguín and Chair Simon-Weisberg, Committee Co-Chairs)
Next regularly-scheduled meeting: Wednesday, Sept. 28th at 3:00 p.m.

- g. Ad Hoc Committee on Rent Board Technology Issues (Commissioner Selawsky, Chair) – 3 min.*
Next meeting date: TBA

- h. Updates and Announcements – 3 min.*

- i. Discussion of items for possible placement on future agenda – 5 min.*

12. ADJOURNMENT

COMMUNICATIONS DISCLAIMER:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: September 15, 2022

TO: Honorable Members of the Rent Stabilization Board

FROM: DeSeana Williams, Executive Director

BY: Amanda Eberhart, Registration Unit Manager

SUBJECT: Request for waiver of late registration penalties

Recommendation:

That the Board approve the attached recommendations.

Background and Need For Rent Stabilization Board Action:

The Board's penalty waiver process is governed by Regulations 883, 884 and 885. Regulation 883 lists the grounds for administrative waivers. In accordance with Regulation 884, the Executive Director reviews waiver requests that do not meet the criteria for an administrative waiver. 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). The Board may only alter these ministerial waivers if staff has incorrectly applied the criteria listed in Regulation 884 (B)(1-12).

Ministerial Waivers

In accordance with Regulation 884, the Executive Director reviews waiver requests that do not meet the criteria enumerated in Regulation 883. The following waiver request will be decided ministerially, unless the Board has reason to believe the underlying basis of the recommended assessment is inappropriate.

Waiver	Property Address	Owner	Penalty Assessed	Penalty Waived	Penalty Imposed
	2390 MCGEE	TSIT & CHEE LAM	150.00	150.00	
	1922 WOOLSEY	BLACK DIAMOND MANAGEMENT	600.00	600.00	
	2171 ALLSTON	NASSER & PAMELA KASHANI	1,000.00	1,000.00	
	2130 BROWNING	AVI ATID	750.00	750.00	
	1730 HIGHLAND #4	HELENA KOLENDA	300.00	300.00	
	3025 DANA ST	LISA HILLEGAS	300.00	300.00	
	2016 9TH	JUANA ALICIA ARAIZA	500.00	500.00	
	1409 CYPRESS	MARK ATTARHA	150.00		150.00
	2803 REGENT	ERIC TAYLOR	132.00		132.00
	1902-06 RUSSELL	CARMILITA GARDNER	2,670.00		2,670.00
TOTAL			\$6,552	\$3,600	\$2,952

Financial Impact: Ministerial Waivers

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$3,600**.

Discretionary Waivers

For the waiver requests 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
W5050	2918 STANTON	TORRANCE MAK	2,500.00	2,500.00	
TOTAL			\$2,500	\$3,500	

Financial Impact: Discretionary Waivers

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$2,500**.

Name and Telephone Number of Contact Person:

DeSeana 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: W5050	Property address: 2918 STANTON ST	Transferred: 02/16/2018
Exempt units (as of February 2021): None		
Owner(s): TORRANCE MAK	Waiver filed by: OWNER	# of Units: 5
Other Berkeley rental property owned: None		

Late payment/penalty history: No late payments in the last 5 years.

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: COVID Financial Hardship						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY 21-22	5	-	-	\$2,500.00	-	\$2,500.00
Totals				\$2,500.00	\$0.00	\$2,500.00

Grounds under Regulation 884(B): (12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090

Good cause claimed by owner: The owner lost their job due to COVID and experienced a financial hardship.

Recommendation: Staff recommends waiving 100% of the penalties.

Staff Analysis: This property owner has not paid the registration fees late in the last 5 fiscal years. In the 21-22 registration cycle, this property owner lost their job due to COVID. At the same time, the owner also had tenants that were affected by COVID which resulted in a financial hardship for the owner.

RECEIVED

JUL 01 2022

Public

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>

Initial: _____
Berkeley Rent Board

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2918 Stanton St. Berkeley, CA 94702

Owner: Torrance Mads, Tiffany Iren Chen

Date of acquisition, if new owner: 02/16/2018

Name & relationship of person filing request, if not owner: _____

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.

I lose my job due to covid in 2021, also
50% of the tenants were not making rent, therefore
I had a cash crunch in 2021

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

Date: 7/1/2022 Signature: Torrance Mads

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: TorranceM@gmail.com

Mailing Address: ~~20930~~ P.O. Box 20930, Oakland, CA 94620

Phone Number: 510 387 9588 Fax Number: _____

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



[Commission Name]

CALENDAR

To: Honorable Mayor and Members of the City Council

From: Helen Walsh

Submitted by: Commission on Disability

Subject: The Elevator Ordinance Referral aims to provide alternative housing to people with disabilities in the event of an emergency or out-of-service elevator in apartment complexes of 10 or more units and 2 or more stories. However, the municipal code should provide more adequate financial means in order to provide adequate and accessible accommodations, especially to tenants who use medical equipment and or mobility devices.

RECOMMENDATION

Clarifying standards and reducing the change of a court misunderstanding the intent of the code. The Elevator Ordinance Referral aims to provide alternative housing to people with disabilities

1. Require that alternative housing be accessible and that “ accessible “ is defined by the California Building Code.
2. Clarifying what standard for “reasonable arrangements”, and “ reasonable steps” in section 19.50.040(C). Using the elevator industry standard is more protective of tenants, because it is a higher standard.
3. Clarify that both immediate repair and alternative housing are required, not one or the other, section 19.50.060(A). revision adding “ and/or”.
4. Removing the 10-Day limit on providing alternative housing, where the elevator cannot be repaired immediately.
5. Raise the maximum cost of alternative housing to meet modern economic realities.
6. Include a food voucher to meet the modern economic realities.
7. Post and provide tenants rights elevator repair, outage and out of service information in accessible formats and where tenants with and without disabilities have the best opportunity to review and receive the information.

SUMMARY *[This section is included only if report exceeds three pages.]*

FISCAL IMPACTS OF RECOMMENDATION

Landlords and owners in the city of Berkeley are obligated to have liability insurance in the event of a person being injured from having an accident on the property. If the Landlord does not possess liability insurance, the city of Berkeley would have to intervene, costing the city money and resources of the amount that depends on the severity of the situation.

CURRENT SITUATION AND ITS EFFECTS

The intent of Clarifying standards is to protect persons with disabilities and seniors who are unable to use the stairs from being displaced or having to face an undue financial burden following an unexpected elevator repair, outage and or the service is out of order. These problems are especially serious in the city of Berkeley and the greater Bay Area where conventional, affordable housing is scarce while accessible, affordable housing is exceptionally rare. Moreover, there is no written, explicit protocol for landlords and owners of apartment complexes of 10 or more units or more than 2 stories or more to follow if an elevator was to go out of commission.

BACKGROUND

People with disabilities and the elderly are faced with undue hardships if and when an elevator malfunction occurs. Elevators can malfunction from age, not being maintained, power outages, damage and or some sort of natural disaster. Seniors and Persons with Disabilities are on fixed incomes. It is difficult to locate an affordable alternative accessible housing and or an accessible hotel room. Costs are often outside the monthly income that this population can afford.

Currently the Chapter 19.50 places an undue burden on the diverse community of persons with disabilities and seniors. Clarifying these standards would ensure that tenants with disabilities and seniors would have full and equal use of their rental or hotel accommodation in the event of an elevator repair, outage and or the service is out of order. It would also reduce misunderstandings in the intent of the code that can lead to undue burdens for the largest minority.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

If there is a fire, earthquake, water damage, or some type of natural disaster, it is not recommended to use the elevator.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

RATIONALE FOR RECOMMENDATION

ALTERNATIVE ACTIONS CONSIDERED

CITY MANAGER

The City Manager [TYPE ONE] concurs with / takes no position on the content and recommendations of the Commission's Report. [OR] Refer to the budget process

Note: If the City Manager does not (a) concur, (b) takes any other position, or (c) refer to the budget process, a council action report must be prepared. Indicate under the CITY MANAGER heading, "See companion report."

CONTACT PERSON

, , ,

Attachments: [Delete if there are NO Attachments]

1: Ordinance

 Exhibit A:

 Exhibit B:

2:

3:

ORDINANCE NO. -N.S.

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code is amended to read as follows:

Section 2. That Berkeley Municipal Code is amended to read as follows:

Section . Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Exhibits [Delete if there are NO exhibits]

A: Title of the Exhibit

B: Title of the Exhibit