



**RENT STABILIZATION BOARD
Regular Meeting**

Thursday, April 20, 2023 – 6:30 p.m.

School District Board Room – 1231 Addison Street, Berkeley, CA 94702

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/86985625124?pwd=UXJZMjRwM3FXQkJOSSWMrTzhJYjhnQT09>. 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 1-669-444-9171 and enter Webinar ID: 869 8562 5124 and Passcode: 917780. 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 4:30 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, 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 (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.

RENT STABILIZATION BOARD

Regular Meeting

Thursday, April 20, 2023

6:30 p.m.

School District Board Room – 1231 Addison Street, Berkeley, CA 94702

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. **CLOSED SESSION** – Pursuant to California Government Code Section 54956.9(a), the Board will convene in closed session for an update on litigation:

Athan Magganas and Maxaco, LLC v. City of Berkeley Rent Stabilization Board
(Alameda County Superior Court Case #22CV011758)

Potential litigation: *Alan Wofsy & Associates, a California corporation (dba Hearst Commons), on behalf of itself and all others similarly situated v. City of Berkeley Rent Stabilization Board* (unfiled)

Williams, et al. v. Alameda County, Alameda County Board of Supervisors, City of Oakland, Oakland City Council (United States District Court for the Northern District of California Case # 3:22-cv-01274-LB) – amicus brief

3. **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. – 2 min.*
4. **Approval of Agenda** – 1 min.*
5. **Introduction of Rent Board staff**: Shamika Cole and Kaleia Bethany – 5 min.*

6. **Public Comment** – 2 min. per speaker for *non*-agendized items*
7. **Public Comment** – 2 min. per speaker for items on the agenda*
8. **CONSENT ITEMS** – 1 min.*
 - a. Approval of the March 16th regular meeting and public hearing 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

893 NEILSON
1230 BURNETT
1305 KAINS
455 ARLINGTON
1136-1138 KEELER
1737 PARKER
2303-2309 CALIFORNIA
1505-1507 DERBY
1767 EUCLID #1
2217 8TH ST
1560 SCENIC

Discretionary Waivers

Waiver No. Property Address

W5079	2225 8TH
W5080	2601 COLLEGE AVE #203
W5081	2304 DERBY

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.*
- b. Special presentation on housing legislation by Brian Augusta, Rent Board Legislative Advocate – 30 min.*

- (1) State Legislative Report with discussion and possible Board action regarding several state legislative bills – 20 min.*
- c. Recommendation to adopt Resolution 23-10 authorizing the pass-through of a portion of the Fiscal Year 2023-2024 registration fee for fully-controlled rental units to certain tenants (Executive Director) – 5 min.*
- d. Recommendation to adopt Resolution 23-11 authorizing the Executive Director to increase the purchase order with ACRO Service Corporation by an additional amount not to exceed \$40,000 for full-time temporary support for administrative tasks related to changes to the Eviction Moratorium (Executive Director) – 5 min.*
- e. Recommendation to adopt proposed amendments to Regulations 883 and 884 to streamline the waiver process – *First reading* (LIRA Committee) – 15 min.*
- f. Update and possible action on the waiver recommendation for Discretionary Waiver Number W5078 for 1951 Chestnut Street (Registration Unit Manager) – 10 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. Eviction Moratorium Communication Plan update (Website, Tenant/Landlord mailing/Workshop) – *Verbal* (Executive Director) – 5 min.*
- b. Updated Commissioner attendance at Board and Committee meetings, including unanticipated remote participation, through the 1st quarter of 2023 (Board Secretary) – 1 min.*
- c. Date to submit agenda topics/items for May’s regular Rent Board meeting: **Monday, May 8th by 5:00 p.m.** (Board Secretary) – 1 min.*

11. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget and Personnel Committee (Commissioner Walker, Chair) – 5 min.*
Next regularly-scheduled meeting: Thursday, May 4th at 5:30 p.m.
- b. Eviction/Section 8/Foreclosure Committee (Commissioner Elgstrand, Chair) – 5 min.*
Next regularly-scheduled meeting: Tuesday, June 13th at 6:00 p.m.

April 11th agenda

- c. Legislation, IRA/AGA & Registration Committee (LIRA Committee)
(Commissioner Kelley, Chair) – 5 min.*
Next regularly-scheduled meeting: Tuesday, May 2nd at 5:30 p.m.

April 3rd agenda

- d. Outreach Committee (Vice-Chair Alpert, Chair) – 5 min.*
Next regularly-scheduled meeting: Monday, May 8th at 5:30 p.m.

April 10th agenda

- e. 4 x 4 Joint Task Force Committee on Housing: City Council/Rent Board – 5 min.*
(Mayor Arreguín and Chair Simon-Weisberg, Co-Chairs)
Next regularly-scheduled meeting: Tuesday, May 2nd at 3:00 p.m.
- f. Ad Hoc Committee on Environmental Sustainability (Chair TBA) – 3 min.*
Next meeting date: Wednesday, May 3rd at 5:30 p.m.
- g. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District
(Chair TBA) – 1 min.*
Regularly-scheduled meeting date: TBA
- h. Updates and Announcements – 5 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
Regular Meeting and Public Hearing
Thursday, March 16, 2023
7:00 p.m.

Berkeley Unified School District Board Room
1231 Addison Street, Berkeley, CA 94702

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

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RENT STABILIZATION BOARD
Regular Meeting and Public Hearing
Thursday, March 16, 2023
7:00 p.m.

Berkeley Unified School District Board Room
1231 Addison Street, Berkeley, CA 94702

Minutes - *Unapproved*

1. **Roll call** – Chair Simon-Weisberg called the meeting to order at 7:10 p.m.
Commissioners present: Alpert, Elgstrand, Johnson, Kelley, Marrero, Martinac, Mizell, Walker, Simon-Weisberg
Staff present: Brown, Bursell, Eberhart, Ehlinger, Mueller, Williams

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.

The Land Acknowledgment Statement was read aloud.

3. **Approval of Agenda**

M/S/C (Alpert/Martinac) APPROVE THE AGENDA AS WRITTEN EXCEPT MOVE DISCRETIONARY WAIVER W5078 FROM CONSENT TO ACTION. 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.

4. **Public Comment** – *non*-agendized items. There was one speaker. Paola Laverde congratulated the Board for prevailing in recent litigation case.

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

6. CONSENT ITEMS

Discretionary Waiver W5078 was moved to action by an earlier vote of the Board.

- a. Approval of the February 16th regular meeting minutes
- b. Recommendation to adopt Resolution 23-04 authorizing the Executive Director to execute a contract modification with Goldfarb & Lipman LLP through June 30, 2023, in an amount not to exceed \$20,000 (General Counsel)
- c. Recommendation to adopt Resolution 23-05 authorizing the Executive Director to execute a contract modification with Sloan Sakai Yeung & Wong LLP through June 30, 2023, in an amount not to exceed \$80,000 (General Counsel)
- 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

18 THE UPLANDS
2022 VIRGINIA ST
2915 HARPER
2124 PRINCE
1032 CRAGMONT
2614 WARRING
2237 ROOSEVELT
939 ADDISON
2117-2119 ASHBY
3014 COLLEGE
1455 GRIZZLY

Discretionary Waivers

Waiver No. Property Address

W5075	2716 DURANT
W5076	2443 SPAULDING
W5077	1300 DELAWARE
W5078	1951 CHESTNUT

M/S/C (Alpert/Johnson) APPROVE ALL CONSENT ITEMS AS WRITTEN EXCEPT DISCRETIONARY WAIVER W5078 WHICH WAS MOVED TO ACTION BY A PRIOR VOTE OF THE BOARD. Voice vote. Carried: 9-0-0-0.

7. **PUBLIC HEARING ON PROPOSED INCREASE TO THE ANNUAL REGISTRATION FEES FOR FISCAL YEAR (FY) 2023-2024**

- a. Staff presentation on the proposed increase to the FY 2023-2024 Annual Registration Fees – Lief Bursell presented, and he and Executive Director Williams responded to questions from the Board.
- b. Public Comment – There were no speakers.
- c. Comments from the Board – The Commissioners offered comments and observations about the proposal.

8. **ACTION ITEMS**

From Board Members, Committees, Executive Director or Staff

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

Discretionary Waiver W5078 was moved to Action by an earlier vote of the Board.

Discretionary Waiver W5078: M/S/C (Simon-Weisberg/Johnson) CONTINUE DISCRETIONARY WAIVER W5078 TO THE NEXT MEETING SO THAT STAFF CAN INVESTIGATE OWNERSHIP. Voice Vote. Carried: 9-0-0-0.

- a. Chair Update (Chair Simon-Weisberg) – No update.
- b. Recommendation to adopt Resolution 23-06 setting the FY 2023-2024 annual registration fee for fully-covered units (due July 3, 2023) at \$290 per unit (Budget & Personnel Committee and Executive Director)

M/S/C (Simon-Weisberg/Alpert) APPROVE RESOLUTION 23-06 AS WRITTEN. 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.

- c. Recommendation to adopt Resolution 23-07 setting the FY 2023-2024 annual registration fee for partially-covered Measure MM units (due July 3, 2023) at \$178 per unit (Budget & Personnel Committee and Executive Director)

M/S/C (Simon-Weisberg/Walker) APPROVE RESOLUTION 23-07 AS WRITTEN. 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.

- d. Recommendation to adopt Resolution 23-08 setting the FY 2023-2024 annual registration fee for partially-covered Measure MM units in affordable housing

projects (due July 3, 2023) at \$37 per unit (Budget & Personnel Committee and Executive Director)

M/S/C (Simon-Weisberg/Marrero) APPROVE RESOLUTION 23-08 AS WRITTEN. 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.

- e. Recommendation to adopt Resolution 23-09 setting the Summer Rental Period registration fee for fraternities and sororities for FY 2023-2024 (due July 3, 2023) at \$70 per unit (Budget & Personnel Committee and Executive Director)

M/S/C (Simon-Weisberg/Mizell) APPROVE RESOLUTION 23-09 AS WRITTEN. 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.

- f. Discussion and possible action to send a letter of support for Senate Bill (SB) 460 (Wahab): Fair Chance Housing (Chair Simon-Weisberg & Commissioner Johnson)

M/S/C (Johnson/Marrero) SEND A LETTER OF SUPPORT FOR SB 460. Voice vote. Carried: 9-0-0-0.

- g. Discussion and possible action to send a letter of support for SB 466 (Wahab): Costa-Hawkins Rental Housing Act: rental rates (Commissioner Elgstrand, Chair Simon-Weisberg & Commissioner Kelley)

M/S/C (Elgstrand/Kelley) SEND A LETTER OF SUPPORT FOR SB 466. Voice vote. Carried: 9-0-0-0.

9. 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. Update on Council's recent action on the City's Eviction Moratorium – Verbal (General Counsel) – The General Counsel presented and responded to questions from the Board.
- b. Update on limited post-emergency options for remote participation in Board and Committee meetings (General Counsel) – The General Counsel presented and responded to questions from the Board.

- c. Owner Move-in Eviction Tracking Report (January 2020 - December 2022) (Eviction/Section 8/Foreclosure Committee) – Staff Attorney Ehlinger presented on the report and owner-move in eviction provisions proposed in Council’s recent action on the City’s Eviction Moratorium.
- d. Date to submit agenda topics/items for April’s regular Rent Board meeting is **Monday, April 10th by 5:00 p.m.** (Board Secretary)

10. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget and Personnel Committee (Commissioner Walker, Chair)
Next regularly-scheduled meeting: Thursday, April 6th at 5:30 p.m.

February 22nd agenda
- b. Eviction/Section 8/Foreclosure Committee (Commissioner Elgstrand, Chair)
Next regularly-scheduled meeting: Tuesday, April 11th at 6:00 p.m.

March 8th agenda
- c. Legislation, IRA/AGA & Registration Committee (LIRA Committee) (Commissioner Kelley, Chair)
Next regularly-scheduled meeting: TBA
- d. Outreach Committee (Vice-Chair Alpert, Chair) – Committee Chair Alpert reported on discussions concerning outreach related to the proposed changes to the Eviction Moratorium, and the status of the Tenant Survey.
Next regularly-scheduled meeting: Monday, April 10th at 5:30 p.m.

March 9th 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. Ad Hoc Committee on Environmental Sustainability (Chair TBA)
Next meeting date: TBA
- g. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District (Chair TBA)
Regularly-scheduled meeting date: TBA
- h. Updates and Announcements – Chair Simon-Weisberg reported that she and Commissioner Walker are participating in an art exhibition at Yerba Buena about imagining new Constitutional rights on Sunday, March 19 at 2:00 p.m.

- i. Discussion of items for possible placement on future agenda

11. ADJOURNMENT

M/S/C (Alpert/Kelley) ADJOURN THE MEETING. Voice vote. Carried: 9-0-0-0.

The meeting adjourned at 9:42 p.m.



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: April 20, 2023
TO: Honorable Members of the Rent Stabilization Board
FROM: DéSeana Williams, Executive Director
BY: Amanda Eberhart, Registration Unit Manager
SUBJECT: Request for waiver of late registration penalties

Recommendation:

That the Board approves 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. Please see the attached Ministerial Waiver Analysis and Recommendation for additional details.

Waiver	Property Address	Owner	Penalty Assessed	Penalty Waived	Penalty Imposed
	893 NEILSON	EDGAR JENSEN	3,000.00	1,200.00	1,800.00
	1230 BURNETT	ADRIENNE WAHEED	500.00	400.00	100.00
	1305 KAINS	THERESA NGUYEN	300.00	240.00	60.00
	455 ARLINGTON	JEFFREY DELLHEIM	150.00	120.00	30.00
	1136-1138 KEELER	JENNA MARIE MELTON	600.00	600.00	
	1737 PARKER	FERN STROUD	1,000.00	800.00	200.00
	2303-2309 CALIFORNIA	SEBASTIEN FONDBERTASSE	1,500.00	1,500.00	
	1505-1507 DERBY	MATTHEW & AMANDA SILAS	2,000.00	1,200.00	800.00
	1767 EUCLID #1	NICK PAL	600.00	300.00	600.00
	2217 8TH ST	TRUCKEE ZURICH PLACE LLC	732.00		732.00
	1560 SCENIC	NAHJEEN ESMAILI	250.00	250.00	
TOTAL			10,632.00	6,610.00	4,322.00

Financial Impact: Ministerial Waivers

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$6,610**.

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
W5079	2225 8TH	GRACE CHI	1,000.00	1,000.00	
W5080	2601 COLLEGE AVE #203	FARIBORZ TABIBZADEH	300.00	240.00	60.00
w5081	2304 Derby	LAWRENCE WOLFLEY	324.00		324.00
TOTAL			1,624.00	1,240.00	384.00

Financial Impact: Discretionary Waivers

Approval of Executive Director’s recommendations will decrease the Board’s current accounts receivable by **\$1,240.00**.

Name and Telephone Number of Contact Person:

DéSeana Williams, Executive Director
Rent Stabilization Board
2125 Milvia Street, Berkeley, CA 94704
(510) 981-7368

Ministerial Waiver Analysis and Recommendation

Address	Details
893 NEILSON	<p>The single family home located at <u>893 Neilson</u> has been owned by the current owner since <u>1999</u>. In the last five fiscal years this property owner has paid the registration fee late four of the five years. In fiscal year 17-18 the property owner paid late and was granted an administrative waiver. In 19-20 the registration fee was also paid late and an administrative waiver was also granted. For fiscal year 20-21, the property owner made no payments and both the July and January penalties were applied to the account. No administrative waiver was applied for. Lastly, in fiscal year 22-23 the property owners also paid the registration fee late and an administrative waiver was granted. The owner states in their waiver that, “the property owner had serious health conditions that prevented the property owner from paying timely”. The waiver form asks all property owners to submit evidence to support their claims. Unfortunately, at the time the waiver was submitted, no additional documentation was provided. Also, the Rent Board offers a variety of payment options for property owners, such as online payment, mailed checks, there is a drop box outside of our office, and owners have the option to pay in person. It is unclear why these payment options were not taken advantage of. Per regulation 884 C, this property qualifies to have 40% of their penalties waived after four late payments in five years. Per regulation 884 C, staff recommends waiving 40% of the penalties.</p>
1230 BURNETT	<p>The triplex located at <u>1230 Burnett</u> has been owned by the current owner since 2008. In the last five fiscal years the owner has paid the registration fees late twice. The owner paid late in the 21-22 registration cycle and was granted an administrative waiver. This owner also paid late in the 22/3 registration cycle. The owner states in their waiver that, “they were too depressed and overwhelmed to open their mail”. Per Rent Board regulation 884 C, this property qualifies to have 80% of their penalties waived for paying the registration fee late in two of the last five fiscal years. Staff recommends waving 80% of the penalties per the ordinance.</p>
1305 KAINS	<p>The Property located at <u>1305 Kains</u> is a single-family home partially covered under Measure MM. Unfortunately, there are not five years of financial history to review. Rent Board records will show the property owner paid late in the 21/22 registration cycle and was granted an administrative waiver. The owner also paid the 22/23 registration fees late. The owner states in their waiver that, “they did not receive the billing statement”. A search of Rent Board records will show that on 2/15/21, the property owner logged into the Rent Registry portal and updated the contact information for the property. To date, that address and contact information has not changed. Per Regulation 884 C, this property qualifies to have 80% of their penalties waived for two late payments in the last five fiscal years. Staff recommends waiving 80% of the penalties per the ordinance.</p>

Ministerial Waiver Analysis and Recommendation

<p>455 Arlington</p>	<p>The Property located at 455 Arlington is a single-family home partially covered under Measure MM. Unfortunately, there are not five years of financial history to review. Rent Board records will show the property owner paid late in the 21/22 registration cycle and was granted an administrative waiver. The owner also paid the 22/23 registration fees late. The owner states in their waiver that, “they were unaware of the requirement for single family homes and that they did not receive the billing statement”. A search of Rent Board records will show that on 10/28/21, the property owner logged into the Rent Registry portal completed registration for the 21/22 registration cycle, paid the registration fee and updated the contact information for the property. To date, that address and contact information has not changed. Per Regulation 884 C, this property qualifies to have 80% of their penalties waived for two late payments in the last five fiscal years. Staff recommends waiving 80% of the penalties per the ordinance.</p>
<p>1136-1138 Keeler</p>	<p>The Property located at <u>1136-1138 Keeler</u> is a single-family home partially covered under Measure MM. Unfortunately, there are not five years of consecutive financial history to review. Rent Board records will show the property owner has not made any late payments in their payment history. The owner states in their waiver that, “in 2021, they completed all the necessary paperwork but never heard back from the Rent Board”. A search of Rent Board records unfortunately contradicts that statement. Rent Board records will show that the 21/22 registration fees were paid on time. Per Regulation 884 C, this property qualifies to have 100% of their penalties waived for no late payments in the last five fiscal years. Staff recommends waiving 100% of the penalties per the ordinance.</p>
<p>1737 Parker</p>	<p>The Property located at <u>1737 Parker</u> is a single-family home fully covered under the Berkeley Rent Ordinance. In the last 5 fiscal years the property owner has made two late payments. The owner paid the 17-18 registration fees late and was granted an administrative waiver. The owner also paid the 22/23 registration fees late. The owner states in their waiver that, “they did not know they would be paying for two units after one tenant moved out and that Covid had impacted their life like many other seniors”. Unfortunately at the time the waiver was submitted, the owner did not elaborate on the ‘Covid Impact’. Also, the owner submitted no additional documentation was provided for the Registration Manager to review. Per Regulation 884 C, this property qualifies to have 80% of their penalties waived for two late payments in the last five fiscal years. Staff recommends waiving 80% of the penalties per the ordinance.</p>
<p>2303-2309 California</p>	<p>The four-plex located at <u>2303-2309 California St</u> has been owned by the current owner since <u>2006</u>. In the last five fiscal years, this property owner has not made any late registration payments. The owner states in their waiver that, “they did not receive the original billing statement.” Per Regulation 884 C, this property qualifies to have 100% of the penalty waived for no late payments in the last five fiscal years. Staff recommends 100% of the penalty be waived.</p>

Ministerial Waiver Analysis and Recommendation

<p>1505-1507 Derby</p>	<p>The duplex located at <u>1505-1507 Derby</u>, has been owned by the current owner since 2010. In the last five fiscal years, the owner has paid the registration fee late three times. In fiscal 17/18 they were granted an admin waiver. Also, the registration fees for both 21/22 and 22/23 were also paid late. The property owner states in their waiver that, “for the 21/22 registration cycle, they never received a bill.” A search of the Rent Board records will show the contact information on file for this property is the same in the historical database, the current rent registry platform, and is the same contact information submitted on the waiver form as of February 2023. The owner also states in their waiver that, “they made a good faith effort to pay the 22/23 registration but was unable to log into the system.” They also state in the waiver that, “they reached out via email and telephone but did not hear back from Registration staff until after the bill was due.” Unfortunately, a search of Rent Board records will show a contradiction in that statement. Rent Board records show that we received the first email communication from the property owner Saturday July 2, 2022 at 5:53 pm. At this time, the registration due date for the 22/23 cycle had already passed. The initial email received did not have an address APN number or any other identifiable information for staff to assist the property owner. Our records will show, the owner sent two additional emails that Saturday informing the Rent Board they could not log in and needed a PIN. Staff responded to the owner and sent the owner a PIN and the waiver form July 15th. Per Rent Board Regulation 884 C, this property qualifies to have 60% of the penalties waived based on three late payments in the last five fiscal years. Staff recommends waiving 60% of the penalty.</p>
<p>1767 Euclid #1</p>	<p>The property located at 1767 Euclid is a condo that has been owned by the current owner since 2003 and is partially covered under Measure MM. Prior to the passing of Measure MM, this property was not subject to the Registration requirement of the Rent Ordinance. Unfortunately, there are not five years of financial data to review as this property completed registration for the first time in February 2023. In the waiver submitted by the owner they state, “no prior information provided and that they previously have paid all invoices including rent control inspections.” A search of Rent Board records will show a contradiction to that statement. In March of 2021, the property owner was sent a Measure MM packet. The packet included an Introductory Letter, Measure MM Fact Sheet, Amended Registration Form, and Vacancy Registration Form. The address on the Measure MM packet matches the county property records, the current Rent Registry platform and is the same address provided on the waiver submitted in February. Staff recommends denying the waiver.</p>
<p>2217 8th St</p>	<p>The <u>3 unit 2, 3 or 4 single family home</u> located at 2217 8th St has been owned by the current owner since 2017 and is partially covered under Measure MM. Prior to the passing of Measure MM, this property was not subject to the Registration requirement of the Rent Ordinance. Unfortunately, there are not five years of financial data to review as this property completed registration for the first time in January 2023. In the waiver submitted by the owner they state, “we did not know about registering or fees for this unit/ house.” A search of Rent Board records will show a contradiction to that statement. In March of 2021, the property owner was sent a Measure MM packet. The packet included an Introductory Letter, Measure MM Fact Sheet, Amended Registration Form, and Vacancy Registration Form. The address on the Measure MM packet matches the county property records, the current Rent Registry platform and is the same address provided on the waiver submitted in February. Staff notes, the property owner has already paid the penalty fees on the account. Staff recommends denying the waiver.</p>

Ministerial Waiver Analysis and Recommendation

1560 scenic	<p>The Property located at <u>1560 Scenic</u> is a single-family home fully covered under the Berkeley Rent Ordinance. In the last 5 fiscal years the property owner has made no late payments. The owner states in their waiver that, “they did not receive the original bill in the summer and was also not aware they needed to pay the registration fee yearly”. The owner also stated in their waiver that, “she was a stay at home mom, so they only have one income and money is tight. Staff notes, the waiver form clearly asks owners where possible to attach evidence to document the circumstances that prevented timely payment. At the time of the initial waiver submission, the owner submitted no additional documentation for the Registration Manager to review. It is also unclear why the owner did not take advantage of the Covid Relief Period where the Board removed fees for financial hardship. Per Regulation 884 C, this property qualifies to have 100% of their penalties waived for no late payments in the last five fiscal years. Staff recommends waiving 100% of the penalties per the ordinance.</p>
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**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5079	Property address: 2225 8TH ST BERKELEY CA	Transferred: 03/30/1990
Exempt units (as of February 2021): Unit # B - OCCC - Owner		
Owner(s): GRACE CHI	Waiver filed by: OWNER	# of Units: 3
Other Berkeley rental property owned: None		

Late payment/penalty history: In the last five fiscal years the owner has not made any late payments.

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: Justice						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2022-23	3	\$500.00	02/03/2023	\$1,000.00	\$0.00	\$1,000.00
Totals				\$1,000.00	\$0.00	\$1,000.00

Grounds under Regulation 884(B): (11) The Executive Director, or his or her designee, recommends that the interests of justice require that a greater or lesser amount be waived

Good cause claimed by owner: The owner was a victim of a Hate Crime and was unfortunately hospitalized.

Recommendation: Staff recommends waiving 100% of the penalty fee.

Staff Analysis: The triplex located at 2225 8th has been owned by the current owner since 1990. In the last five fiscal years the owner has not made any late payments. The owner states in their waiver that, "they were the victim of a Hate Crime and unfortunately was hospitalized. Per Rent Board regulation 884 B (11), in the interest of Justice, this property can qualify to have 100% of the penalty fees waived.

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>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2225 8th Street

Owner: Grace Chi

Date of acquisition, if new owner: N/A

Name & relationship of person filing request, if not owner: N/A

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 was a victim of Hate Crime, I was in the Hospital and nursing home. + stay immobilization. I am unable to take care of regular thing include contact to the public.

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

Date: 2/2/2023 Signature: Grace Chi

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: herbchi88@yahoo.com

Mailing Address: 2225 8th Street Berkeley CA 94710

Phone Number: (510) 387-7890 Fax Number: 0

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5080	Property address: 2601 COLLEGE AVE 203	Transferred: 01/01/1900
Exempt units (as of February 2021): None		
Owner(s): FARIBORZ TABIBZADEH	Waiver filed by: OWNER	# of Units: 1
Other Berkeley rental property owned: 2601 COLLEGE AVE 203 BERKELEY CA 94704		

Late payment/penalty history: Unfortunately, there are not five years of financial history to review for this property. Rent Board records will show the property owner made the 21/22 registration payment late and was granted an administrative waiver. This property also paid the 22/23 registration fees late.

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: Illness						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2022-23	1	\$150.00	02/27/2023	\$300.00	\$0.00	\$300.00
Totals				\$300.00	\$0.00	\$300.00

Grounds under Regulation 884(B): (1) The good cause asserted in the waiver request is a death or illness in the landlord's family.

Good cause claimed by owner: The owner's husband had been in and out of the hospital for the last 6-7 months. The property owner is unsure they received a statement in that time frame.

Recommendation: Staff recommends waiving 80% of the penalties.

Staff Analysis: The Property located at 2601 College Ave #203 is a single-family home partially covered under Measure MM. Unfortunately, there are not five years of financial history to review for this property. Rent Board records will show the property owner made the 21/22 registration payment late and was granted an administrative waiver. This property also paid the 22/23 registration fees late. The owner states in their waiver that, "they did not receive the billing statement". The owner also states that, "their husband was hospitalized off and on for 6 to 7 months and they are unsure if he did receive anything." The waiver form clearly states, "where possible to provide evidence/documentation to document the circumstances that

prevented timely payment. Unfortunately, at the time this waiver was submitted no additional documentation was provided for the Registration Manager to review. Under Regulation 884 B (1) this waiver qualifies to be heard as a discretionary waiver because the owner is claiming illness. Unfortunately, staff was unable to corroborate this information. Per Regulation 884 C, this property qualifies to have 80% of their penalties waived for two late payments in the last five fiscal years. Staff recommends waiving 80% of the penalties per the ordinance.

Public
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RECEIVED

FEB 27 2023

Initial: _____
Berkeley Rent Board

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2601 College Ave, Berkeley 94704

Owner: Fariborz/Shirin Tabibzadeh

Date of acquisition, if new owner: More than 20 years

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

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.

Thank you so much for giving us a chance to explain.
We received a bill for \$150 for registration! Plus
\$300 for late fee. as I explained on the phone,
We did not receive this before - My husband has
been very ill & hospitalized ^{off & on} the last 6-7 months
I don't know if he did receive anything from you -
I would appreciate if you waive the penalty this time. ^{I am} so sorry

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

Date: 2/21/23 Signature: Shirin Tabibzadeh

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: ShirinTabib@gmail.com

Mailing Address: 7928 Marquand Ave, West Hills, CA 91304

Phone Number: (408) 390-6996 Fax Number: N/A

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

**City Of Berkeley
Rent Stabilization Board**

Recommendation on Requested Waiver of Registration Penalties

Waiver No: W5081	Property address: 2304 DERBY ST, BERKELEY,	Transferred: 08/23/2022
Exempt units (as of February 2021): None		
Owner(s): LAWRENCE WOLFLEY	Waiver filed by: OWNER	# of Units: 1
Other Berkeley rental property owned: None		

Late payment/penalty history: Unfortunately, there are not five years of financial history to review for this property. This property completed registration for the first time in February 2023.

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: Illness						
Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2022-23	1	\$150.00	02/23/2023	\$348.00	\$0.00	\$348.00
Totals				\$348.00	\$0.00	\$348.00

Grounds under Regulation 884(B): (1) The good cause asserted in the waiver request is a death or illness in the landlord's family.

Good cause claimed by owner: Due to the local state of emergency the owner is requesting more time.

Recommendation: Staff recommends denying the penalty waiver.

Staff Analysis: The Property located at 2304 Derby is a single-family home partially covered under Measure MM. Unfortunately, there are not five years of financial history to review for this property. Rent Board records will show the property completed registration in February 2023. The owner states in their waiver that, "due to the local emergency and sickness they are requesting extra time". Unfortunately, at the time this waiver was submitted no additional documentation was provided for the Registration Manager to review. Upon further investigation into the property, Rent Board records will show, this owner was charged prorated fees and penalties for a tenancy that started June 1, 2022, and was not registered with the Rent Board until February 2023. Under Regulation 884 B (1) this waiver qualifies to be heard as a discretionary waiver because the owner is claiming Sickness. Unfortunately, staff was unable to corroborate this

information. Staff recommends denying the waiver.

RECEIVED

FEB 23 2023

Initial: MP
Berkeley Rent Board

Public

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RENT STABILIZATION PROGRAM
2125 Milvia Street, Berkeley, CA 94704
PHONE: (510) 981-7368 • FAX: (510) 981-4910
WEB: <https://rentboard.berkeleyca.gov>

Request for Waiver of Late Registration Penalties

Please Read Important Information on Page 2

Property Address: 2304 Derby St Berkeley 94705

Owner: Lawrence Wolfley

Date of acquisition, if new owner: _____

Name & relationship of person filing request, if not owner: agent Lyle Wolfley

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.

Due to local emergency and sickness im requesting
extra time

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

Date: 2/23/23 Signature: [Signature]

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: lyle0800@gmail.com

Mailing Address: 2224 Grant St Apt E Berkeley 94703

Phone Number: 510 549 6014 Fax Number: _____

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

2023 Spring Legislative Update

PRESENTED TO THE BERKELEY RENT STABILIZATION BOARD

APRIL 20, 2023

BRIAN AUGUSTA, PUBLIC INTEREST ADVOCATES

LEGISLATIVE ADVOCATE FOR THE BOARD

Overview

- ▶ Overview of 2023 Legislative Session
- ▶ Discussion of Key Bills of Interest to the Board
- ▶ Wrap-up
- ▶ Questions and Answers

2023 Legislative Session

- ▶ New Legislature: 25% Turnover
- ▶ Budget Picture Looks Bleak
- ▶ Record Number of Bills
- ▶ Housing & Homelessness Remain Top Issues



Key Bills This Session

Key Bills This Session – SB 466 (Wahab)

Amends Costa-Hawkins Rental Housing Act

- Exemption for New Construction
- Exemption for Single-Family Homes and Condos

Status of Legislation

What it Means for Berkeley

Key Bills This Session – AB 567 (Durazo)

Amends Tenant Protection Act, AB 1482

- Lowers Rent Cap
- Expands Coverage to Renters in Single-Family Homes
- Applies Protections to Renters Immediately
- Closes Loopholes in “No Fault” Evictions
- Expands Enforcement and Remedies

Status of Legislation

What it Means for Berkeley

Key Bills This Session – SB 460 (Wahab)

Establishes the Fair Chance Act

- Limits landlords in using criminal history to deny access to housing
- Provides procedural protections for renters denied housing based on criminal history
- Prohibits discriminatory advertising
- Provides legal remedies for enforcement

Status of Legislation

What it Means for Berkeley

Key Bills This Session – AB 846 (Bonta)

Establishes Limits on Rent Increases in Tax Credit Properties

- Background on Low-Income Housing Tax Credit Program
- Limits on rent increases

Status of Legislation

What it Means for Berkeley

Key Bills This Session – Streamlining Proposals

Background on “Streamlining” of Housing Development Approvals

Key Proposals This Year

- SB 4 (Wiener) – Affordable Housing on Church Land
- SB 423 (Wiener) – Extension of SB 35
- AB 1532 (Haney) – Streamlined Approval of Office Conversions

Conclusion & Discussion



Brian Augusta & Associates

1107 9th Street, Suite 1011
Sacramento, CA 95814

To: Commissioners, Berkeley Rent Stabilization Board
DéSeana Williams, Executive Director
Matthew Brown, General Counsel

From: Brian Augusta

Date: April 11, 2023

Re: State Legislative Report for the April 2023 Board Meeting

The Legislature is in full swing this month, with thousands of bills to pore through between now and May 5th, when all bills must be heard and passed by policy committees in order to continue moving this year. Among the record number of bills introduced in this session are dozens of notable housing-related bills, including several key landlord-tenant and rent stabilization bills.

SB 466 (Wahab) would amend the Costa-Hawkins Rental Housing Act to alter two key provisions of the Act. It would eliminate the exemption for single-family homes and condominiums, allowing local rent stabilization policies to apply to these units. It would also modify what is commonly known as the “new construction exemption,” which generally prohibits the application of local rent stabilization policies to housing that was first constructed after 1995, or an earlier date when a pre-1995 local exemption was in place, such as in Berkeley. **AB 1620 (Zbur)** would also modify Costa-Hawkins to allow local rent stabilization jurisdictions to mandate that a landlord allow a tenant seeking an accommodation for a disability related to mobility to move to an available first floor unit that is the same size or smaller, and maintain the same rental rate and lease terms as their current unit under certain specified conditions.

In addition, **SB 567 (Durazo)** proposes a number of changes to the Tenant Protection Act (AB 1482 of 2019, Chiu) that covers some renters in non-rent stabilized units. The bill would lower the rent cap to a maximum of 5% per year, expand the protections to all renters living in single-family homes, and close a number of loopholes in the law’s “no fault” provisions.

All of these bills, and most of those listed below, are slated to be heard later this month in committee. It’s expected to be a busy month in Sacramento.

Selected Bills of Interest

Rent Stabilization

SB 466 (Wahab) - Costa-Hawkins New Construction and Single-Family Home Exemptions

Hearing set for Sen. Judiciary on Tuesday, April 18, 1:30 p.m., 1021 O Street, Room 2100
See description above.

AB 1620 (Zbur) - Transferring units as a reasonable accommodation under Costa-Hawkins

Hearing set for Asm. Housing and Community Development on Wednesday, April 19, 9:30 a.m., Room 126
See description above.

Landlord-Tenant

AB 485 (Davies) - Tenant Credit Report

Hearing in Asm. Judiciary not scheduled yet

This bill would require a landlord to provide a prospective tenant with a copy of their credit report within 24 hours after receipt, if requested by the prospective tenant.

AB 500 (Davies) - Electronic rent increase notice.

Hearing in Asm. Judiciary not scheduled yet

Allows landlords to notify tenants of rent increases electronically.

AB 846 (Bonta) - LIHTC Rent Cap

Hearing in Asm. Housing and Community Development not scheduled yet

This would place an annual cap on rent increases in Low-Income Housing Tax Credit properties.

AB 894 (Friedman) - Shared Parking

Awaiting rescheduled hearing in Asm. Local Government

This bill would require local governments to allow shared parking and all shared parking to count towards meeting any required parking minimums for a development project. The bill additionally requires jurisdictions and landowners to study the feasibility of using shared parking when a development uses state funds or prior to a parking lot being developed with public funds.

AB 1317 (Wendy Carrillo) - Unbundling Parking Charges from Rent

Awaiting second hearing in Asm. Judiciary

This bill would require landlords to charge tenants for parking separately from the rent or, where that is not possible, to annually itemize the cost of rent and parking separately.

SB 267 (Eggman) - Use of Credit History for Tenants with Rental Subsidy

Hearing set for Sen. Appropriations on Monday, April 10, 10 a.m., 1021 O Street, Room 2200
For any tenancy where there is a governmental rent subsidy, this bill would require that if the landlord assesses the tenant's credit history as part of the application process the landlord must allow the tenant the option of providing alternative evidence of "financial responsibility and ability to pay." If the tenant elects the alternative method, the landlord must use that evidence in lieu of the tenant's credit history.

SB 395 (Wahab) - Statewide eviction and rent increase database

Hearing set for Sen. Judiciary on Tuesday, April 18, 1:30 p.m., 1021 O Street, Room 2100
Beginning January 1, 2025 would require any notice of termination or rent increase to be filed with HCD within 10 days of being served on the tenant, and require HCD to establish a database to make the information publicly available, while anonymizing any information that could identify an individual tenant.

SB 460 (Wahab) - Fair Chance Housing

Awaiting second hearing in Sen. Judiciary

This bill would prohibit a landlord from inquiring about a prospective tenant's criminal history, except as provided by criminal law, or use of the state's sex offender registry.

SB 567 (Durazo) - Tenant Protection Act

Hearing set for Sen. Judiciary on Tuesday, April 25, 10 a.m., 1021 O Street, Room 2100
See description above.

SB 594 (Durazo) - Corporate Transparency

Hearing in Sen. Judiciary not scheduled yet

Would require LLCs and other corporate entities, including those that own and operate rental housing, to disclose the "beneficial owners" of the entity, including those who own more than 25% or exercise substantial control over the entity.

SB 712 (Portantino) - Storage of Micromobility Devices by Tenants

Senate Floor - 3rd Reading - eligible for a vote, Item 37 for Monday, April 10

Provides that a landlord may not prohibit a tenant from owning a micromobility device, and may not prohibit the device from being stored in the tenant's rental unit unless the landlord provides alternative secured storage. Micromobility devices are defined to include wheelchairs, bicycles, e-bicycles, scooters, e-scooters, skateboards, and hoverboards.

SB 863 (Allen) - Tenant Protection Act

Hearing in Sen. Judiciary not scheduled yet

This bill would give tenants protected under the Tenant Protection Act at least 7 days to cure a lease violation prior to being served a 3-day notice to quit.

AB 1035 (Muratsuchi) - Limits on Rent Increases in Mobilehome Parks

Hearing set for Asm. Housing and Community Development on Wednesday, April 19, 9:30 a.m., Room 126

Under this bill that would apply statewide, mobilehome park space rent increases would be limited to 5% per year. Also, vacancy control would be put in place, unless a new mobilehome is placed on the space.

SB 352 (Padilla) - Minimum Wage to Afford Housing

Hearing set for Sen. Labor, Public Employment and Retirement on Wednesday, April 12, 9:30 a.m., 1021 O Street, Room 2200

Requires the California Workforce Development Board, in conjunction with HCD and the state Secretary of Labor, to recommend to the Legislature each year the minimum wage for a full-time worker to afford housing in each county.

SB 569 (Glazer) - Renter's Credit

Hearing set for Sen. Governance and Finance on Wednesday, April 12, 9:30 a.m., 1021 O Street, Room 1200

This bill would increase the renter's credit and make it refundable.

Fair Housing

AB 920 (Bryan) - Housing Status as a Protected Class

Hearing in Asm. Appropriations not scheduled yet

This bill would add housing status as a protected class under the state Fair Employment & Housing Act (FEHA).

SB 16 (Smallwood-Cuevas) - Local Enforcement of FEHA

Senate Floor - eligible for a vote, Item 36 for Monday, April 10

This bill would allow cities and counties to enforce the state Fair Employment and Housing Act.

Housing Development Approvals

AB 1218 (Lowenthal) - Replacement Housing/Relocation Assistance Requirements

Hearing set for Asm. Housing and Community Development on Wednesday, April 12, 9:30 a.m., Room 126

This bill would make changes to the existing framework requiring the replacement of certain housing units and relocation assistance for certain displaced occupants as a condition of approval of development projects.

AB 1532 (Haney) - By Right Approval for Office to Housing Conversions

Hearing in Asm. Housing and Community Development not scheduled yet

Requires by right approval for office to housing conversions anywhere, regardless of zoning, as long as the project includes 10% of units for low- or moderate-income households.

SB 4 (Wiener) - Affordable Housing By Right on Faith and University Land

Hearing in Sen. Governance and Finance not scheduled yet
This would make 100% affordable housing (for lower-income households) a use by right on land owned by faith institutions and private colleges and universities.

SB 423 (Wiener) - SB 35 Sunset Removal

Hearing in Sen. Governance and Finance not scheduled yet
This bill would remove the sunset on SB 35, increase labor standards for affordable housing projects and reduce them for market-rate projects, and allow SB 35 streamlining for all projects with at least 10% lower-income units if a jurisdiction does not have a compliant housing element.

Housing Finance

AB 309 (Lee) - Social Housing

Hearing set for Asm. Housing and Community Development on Wednesday, April 26, 9:30 a.m., Room 126

This bill would define social housing and state the intent of the Legislature to pass subsequent legislation to "address the shortage of affordable homes by developing housing for people at all income levels."

AB 1657 (Wicks) - Affordable Housing Bond

Hearing set for Asm. Housing and Community Development on Wednesday, April 26, 9:30 a.m., Room 126

Puts a bond of an unspecified amount on the November 2024 ballot to fund various affordable housing programs.

SB 469 (Allen) - Article 34 Exemptions

Hearing set for Sen. Housing on Tuesday, April 18, 1:30 p.m., 1021 O Street, Room 1200
Exempts all HCD funding programs and Low-Income Housing Tax Credit (LIHTC) projects from triggering Article 34.

SB 555 (Wahab) - Social Housing

Hearing in Sen. Housing not scheduled yet
This bill would define social housing in state law, set statewide social housing goals, establish a Social Housing Fund, and require HCD to prepare a social housing plan.



Rent Stabilization Board

DATE: April 20, 2023

TO: Honorable Members of the Rent Stabilization Board

FROM: DéSeana Williams, Executive Director
Lief Bursell, Senior Planner

SUBJECT: Recommendation to Authorize Pass-through of a Portion of the Fiscal Year 2023-2024 Registration Fee for Fully-controlled Units to Certain Tenants.

Recommendation

That the Board adopt resolution 23-10 authorizing the pass-through of registration fees of up to \$13.00 per month to tenancies that began prior to January 1, 1999. The pass-through requires proper notice and may be taken for 12 consecutive months. It cannot begin prior to July 1, 2023 and must terminate no later than December 31, 2024, unless extended by future Board action. The increase shall not result in a pass-through of greater than \$13.00 per month to any tenant. The Resolution also directs staff to continue a program/mechanism that allows low-income tenants with a household income of 50% or less of the Area Median Income (AMI) as calculated by HUD for the Oakland-Fremont, CA HUD FMR Area, or otherwise demonstrating proof of qualification as low-income, to be reimbursed for the pass-through.

Background and Need for Rent Stabilization Board Action

In 2003, the Berkeley Property Owners Association (BPOA) proposed changing the way the Annual General Adjustment (AGA) was calculated, shifting from a pass-through of actual cost increases to a flat formula based on a percentage of the CPI. The Board approved of this formula, and in 2004, the voters approved of this change in how the AGA was calculated. Prior to the change in the AGA methodology, all increases in the registration fee between 1980 and 2005 were taken into consideration and incorporated in the Annual General Adjustment of rents.

Since the adoption of statewide vacancy decontrol in the late 1990s, rent levels have been set using two different standards. Under vacancy decontrol, owners are expected to consider past and anticipated future operating cost increases when setting the initial rent for a new tenancy. Therefore, increases to the registration fee presumably have been factored into the rent charged a new tenant. Over 90% of the units have experienced at least one decontrol event since 1999. The Board has been extremely careful to guarantee that owners of units that have never decontrolled continue to receive compensation for actual increased costs, such as adjustments to the registration fee. Since 2004, the Board has found that it would be fair and equitable, in view of the purposes of the Ordinance, to pass along to tenants a part or all of the increase in fees as a temporary adjustment of rent ceilings. The Rent

Stabilization Ordinance states that registration fees shall not be passed on to tenants in the form of rent increases except with express prior approval from the Board (see subsections 13.76.060.N and 13.76.080.I).

For several years, the Board approved a pass-through of up to \$4.00 per month to tenants where the tenancy began prior to January 1, 1999. In 2015, with the \$19-per-year increase in the registration fee, the amount of the pass-through was increased by \$2.00 per month for a new total pass-through of \$6.00 per month. In 2016, when the fee was raised by \$18, an additional \$2.00 per month was added, raising the monthly pass-through to \$8.00 per unit. In 2017, when the fee was increased by \$36, the pass-through was increased by an additional \$3.00 per unit, bringing the total monthly pass-through to \$11 per unit. Five years ago, the fee was lowered to \$10 per month to reflect the \$20-per-year decrease to the registration fee and it has remained at that level since then. Since the Board has set the FY 2023/24 fully-covered registration fee at \$290 per unit staff recommend the Board increase the pass-through by \$3 to \$13 a month. The proposed pass-through may be taken for 12 consecutive months and cannot begin prior to July 1, 2023, and must terminate no later than December 31, 2024, unless extended by future Board action. The change shall not result in a pass-through of greater than \$13.00 per month to any tenant. The pass-through must be on a form provided by the Board or use language provided by the Director, and a copy must be filed with the Program.

Mitigation of Impact of Pass-through for Low-Income Tenants

As the registration passthrough has increased over time, the Board has been concerned about the impact that the pass-through of the fee could have on tenants on a fixed income. Consequently, the Board adopted a resolution directing staff to develop a mechanism that allows low-income tenants with a household income of 40% or less of the Area Median Income (AMI) to be reimbursed for the pass-through beginning in 2010. Funds for the reimbursement came from settlement of the AEPHI case. Pursuant to Board Regulation 1271(B), in the event of overcharges from a case in which a tenant has not claimed reimbursement within a year, the Board may designate a program of the City of Berkeley that benefits low- and/or moderate-income tenants. Because the AEPHI settlement was entirely from overcharges to tenants and did not include any registration fee, the Board elected to use this as a source to fund the mitigation of the pass-through. Since 2010, over 800 low-income individuals have taken advantage of this program and utilized around \$160,000 of the original \$197,000 in the AEPHI settlement account.

If the Board wishes to continue this mitigation, it will need to authorize an additional allocation from the AEPHI settlement account, which currently contains approximately \$36,000. The original \$18,000 allocation for the pass-through reimbursement program lasted over six years. As the registration fees have increased over the years, we have noticed two trends: More owners are taking the pass-through and more low-income tenants are requesting reimbursement. This trend had continued unchanged until there was a reduction in the number of both passthroughs and reimbursement requests starting in FY 2020/21, likely due to the impacts associated with the COVID-19 pandemic. The following table, lists the totals from each of the past several years:

Year	2017/2018	2018/2019	2019/2020	2020/21	2021/22	2022/23
Registration Fee Charged (amount of pass-through)	\$270 (\$11 per month)	\$250 (\$10 per month)	\$250 (\$10 per month)	\$250 (\$10 per month)	\$250 (\$10 per month)	\$250 (\$10 per month)
Number of Notices Property Owners Sent to Tenants	595	601	680	565	547	534 (YTD)
Number of Qualified Tenants Requesting Reimbursement	101	110	126	104	103	92 (YTD)

The Program has spent nearly \$11,000 on reimbursements so far in FY 2022/23 and staff anticipate this will increase next fiscal year due to both the increase in the passthrough associated with the fee increase and the higher than normal AGA increase for the 2023 calendar year. The Board authorized an additional \$13,000 allocation for the passthrough program last year and staff recommend the Board increase the allocation to \$18,000 for FY 2023/24. At this rate, there is only two years of funding left in the AEPHI settlement account. Staff and the Budget & Personnel Committee will discuss the tenant passthrough and reimbursement program, include possible alternative funding sources, and return to Board with a recommendation during FY 2023/24.

In 2010, the Board also discussed the appropriate income level to qualify for the reimbursement program. Under federal guidelines, 50% of area median income (AMI) is considered “Very Low Income.” Previously, 30% of AMI was considered “Extremely Low Income”, but that definition has since been changed to be the greater of 30/50ths (60 percent) of the Section 8 very low-income limit. There is no unique designation for 40% of the AMI that staff is aware of. The household income by size of household for 30%, 40% and 50% of the AMI for Alameda County is listed below.

According to HUD guidelines, the 2022 area median income for a household in Alameda County is \$142,800. The HUD guidelines were published on April 18th of 2022. The table below lists income standards for 1-8 person households calculated at 30%, 40% and 50% of the AMI, rounded to the nearest \$50 per HUD’s practice. HUD income limits have not yet been updated for 2023.

Income Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% AMI	\$30,000	\$34,300	\$38,550	\$42,850	\$46,300	\$49,700	\$53,150	\$56,550
40% AMI	\$39,950	\$45,700	\$51,400	\$57,100	\$61,650	\$66,250	\$70,800	\$75,350
50% AMI	\$50,000	\$57,100	\$64,250	\$71,400	\$77,100	\$82,800	\$88,550	\$94,250

In previous years, the Board established a standard that allows low-income tenants with a household income of 40% or less of the AMI to be reimbursed for the pass-through; it was not until FY 2018/19 the Board set the qualifying income at the higher 50% AMI level. In FY 2019/20, Staff and the Budget and Personnel Committee recommended that the mitigation pass-through for low-income tenants be adopted to match the HUD’s 50% AMI or “Very Low Income” limit, which included a “High Housing Cost Adjustment” and to continue to allow individuals to demonstrate proof of qualification for reimbursement if they already have been determined eligible for another similar state or federal program, including but not limited to CalWorks, CalFresh, Medi-Cal, WIC or another program approved by the Executive Director. Staff have not had a chance to discuss the passthrough with the Budget & Personnel Committee since their April meeting was canceled. Staff are recommending the mitigation pass-through for low-income tenants be adopted with this same standard again for FY 2023/24. If the Board feels it is more important to extend the funding in the AEPHI account, however, it may consider lowering the income qualification requirements to 30% or 40% of AMI. Staff will update income limits for 2023 as soon as they are published by HUD.

Staff and the Budget and Personnel Committee also recommend that reimbursement for the pass-through continue to be limited to the current registration year, which is consistent with the Board’s practice for the past three years.

Please note that the registration fee pass-through and low-income tenant reimbursement programs are only applicable to controlled rental units and do not apply to Measure MM units.

Name and Telephone Number of Contact Person

DéSeana Williams, Executive Director (510) 981-6903

RESOLUTION 23-10

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF THE FISCAL YEAR (FY) 2023/2024 REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS AND HAVE STAFF IMPLEMENT A MECHANISM THAT ALLOWS QUALIFYING LOW-INCOME TENANTS TO BE REIMBURSED FOR ANY PASS-THROUGH

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

WHEREAS, the Rent Stabilization Board operates on the basis of a fiscal year and each year adopts an operational budget after public review and input; and

WHEREAS, Section 123 of Article XVII of the Charter of the City of Berkeley provides that the Rent Stabilization Board shall finance its reasonable expenses by charging landlords annual registration fees in amounts deemed reasonable by the Board; and

WHEREAS, the Executive Director and Rent Stabilization Board believe that recurring annual revenue of \$6,800,000 in FY 2024 will be necessary to meet the Program's operating and capital needs and it will require an annual registration fee of \$290 per unit for fully covered units \$178 for partially covered Measure MM units; and

WHEREAS, Sections 6.N and 8.K of the Rent Stabilization Ordinance authorize the Rent Board to approve passing a portion of annual registration fees along to tenants as a rent adjustment; and

WHEREAS, prior to the voters changing the way in which the Annual General Adjustment (AGA) was calculated effective in 2005, the Board passed along to tenants all increases in the registration fees as one of the components of the AGA; and

WHEREAS, with the voter-approved change in how the AGA is calculated, the Board is no longer allowed to include new increases to the registration fee as part of the AGA, but only as a pass-through adopted and extended each year; and

WHEREAS, the Rent Stabilization Board consistently found that it would be fair and equitable in view of the purposes of the Rent Ordinance to pass along to tenants' part or all of the increase in the registration fee as a temporary adjustment of rent ceilings; and

WHEREAS, under vacancy decontrol, owners are expected to consider past and anticipated future operating cost increases when setting the initial rent for a new tenancy, and therefore, increases to the registration fee presumably have been factored into the rent charged; and

WHEREAS, under 10% of the rental units in the City have a tenancy that began prior to January 1, 1999, when vacancy decontrol was fully implemented; and

RESOLUTION 23-10

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF THE FISCAL YEAR (FY) 2023/2024 REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS AND HAVE STAFF IMPLEMENT A MECHANISM THAT ALLOWS QUALIFYING LOW-INCOME TENANTS TO BE REIMBURSED FOR ANY PASS-THROUGH (Page 2)

WHEREAS, the Board has attempted to guarantee that owners of these non-decontrolled rental units continue to receive a pass-through for increased costs to the registration fee; and

WHEREAS, the Rent Stabilization Board finds that it would be fair and equitable in view of the purposes of the Rent Stabilization Ordinance to continue to pass along to certain tenants a portion of the 2023 registration fee as a temporary adjustment of rent ceilings; and

WHEREAS, the Board also understands and wishes to mitigate the financial hardships experienced by tenants at 50% or less of Area Median Income (AMI) as calculated by the Department of Housing and Urban Development (HUD) for the Oakland-Fremont, CA HUD FMR Area, or otherwise receiving certain forms of income-qualifying assistance, who have to pay the pass-through; and

WHEREAS, the Board has unclaimed overcharge money available in the AEPHI Lawsuit Settlement Fund designated under Regulation 1271(B) for programs that benefit low- and/or moderate-income tenants.

NOW THEREFORE, BE IT RESOLVED that for each rental unit in which the tenancy began prior to January 1, 1999, for which a full registration fee is paid for Fiscal Year 2024, the landlord may, by serving legal notice pursuant to California Civil Code section 827, increase the rent by up to \$13.00 a month for twelve consecutive months, provided, however, that this partial registration fee pass-through shall not be considered part of the permanent rent ceiling for purposes of calculating the 2024 Annual General Adjustment; and

BE IT FURTHER RESOLVED that this twelve-month temporary general adjustment of up to \$13.00 may not be imposed prior to July 1, 2023, and, regardless of when first collected, shall terminate no later than December 31, 2024, unless extended by further Board action; and

BE IT FURTHER RESOLVED that the maximum increase shall not result in a pass-through greater than \$13.00 per month, and notice to tenants of any pass-through shall be on a form provided by the Board or use language approved by the Executive Director; and

BE IT FURTHER RESOLVED that the landlord shall be required to submit a copy of the above-referenced form to the Rent Board before collecting the pass-through; and

RESOLUTION 23-10

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF THE FISCAL YEAR (FY) 2023/2024 REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS AND HAVE STAFF IMPLEMENT A MECHANISM THAT ALLOWS QUALIFYING LOW-INCOME TENANTS TO BE REIMBURSED FOR ANY PASS-THROUGH (Page 3)

BE IT FURTHER RESOLVED that the Board instructs the Director to implement a program that reimburses low-income tenants with a household income at 50% or less of the AMI as calculated by HUD for the Oakland-Fremont, CA HUD FMR Area, or otherwise demonstrating proof of qualification in another state or federal program (including, but not limited to, CalWORKS, CalFresh, Medi-Cal, WIC) approved by the Director, for any pass-through of registration fees they incur as provided by Regulation 1271(B), which allows for distribution of unclaimed funds to benefit low-income tenants.

Dated: April 20, 2023

Adopted by the Rent Stabilization Board of the City of Berkeley by the following vote:

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chairperson
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director



Rent Stabilization Board
Office of the Executive Director

DATE: April 20, 2023

TO: Honorable Members of the Rent Stabilization Board

FROM: DéSeana Williams, Executive Director

SUBJECT: Recommendation to adopt Resolution 23-11 authorizing the Executive Director to increase the purchase order with ACRO Services Corp. by an additional amount not to exceed \$40,000 for one (1) additional temporary staff person for six (6) months to assist with administrative tasks related to the changes to the Eviction Moratorium

Recommendation

That the Board adopts Resolution 23-11 authorizing the Executive Director to increase the purchase order with ACRO Services Corp. by an additional amount not to exceed \$40,000 for one (1) additional temporary staff person to assist with administrative tasks related to the changes to the Eviction Moratorium.

Background:

On March 21, 2023, the City Council adopted changes to the COVID-19 Emergency Response Ordinance, otherwise known as the Eviction Moratorium. These changes implement a “transition period” from May 1, 2023 – August 31, 2023, and the eventual end of the Moratorium on September 1, 2023.

During the “transition period,” evictions for non-payment of rent where a tenant does not provide a declaration of inability to pay due to an impact related to COVID will be allowed to proceed. Additionally, certain Owner Move-In (OMI) evictions will also be allowed to proceed. Starting September 1, 2023, all evictions will return to the criteria, process, and timelines that existed prior to the City Council’s COVID-19 Emergency Response Ordinance and Eviction Moratorium.

The agency anticipates a significant influx of eviction notices to be filed with the Rent Board starting in May 2023. Housing Counselors will experience increased counseling sessions related to these changes with tenants and landlords. This will create additional staffing needs to:

1. Receive copies of eviction notices from housing providers, upload them to our database system, and file copies in the property folders.
2. Quickly issue template response letters to tenants being served the eviction notice, informing them of their rights, counseling services, and external resources they may contact for guidance and assistance.

3. Provide documentation to parties regarding the receipt and processing dates of the eviction notice.
4. Schedule appointments for Housing Counselors for follow-up.
5. Provide administrative support for agency-wide special projects as needed.

These tasks for each eviction notice filed can take 15-30 minutes per case, and given the anticipated increased volume of eviction notices that will be filed, the agency will need additional administrative support.

Having additional temporary staff by May 2023 would create sufficient staff capacity to receive and process eviction notices and promptly issue letters to tenants informing them of their rights and resources that they may be eligible to receive to help them through the eviction process.

Financial Impact

Staff project that adding one (1) proposed full-time temporary worker for six (6) months will cost the agency an additional \$40,000.

Name and Telephone Number of Contact Person:

DéSeana Williams, Executive Director (510) 981-7368

RESOLUTION 23-11

AUTHORIZING THE EXECUTIVE DIRECTOR TO INCREASE THE PURCHASE ORDER WITH ACRO SERVICES CORPORATION BY AN ADDITIONAL AMOUNT NOT TO EXCEED \$40,000 FOR ONE TEMPORARY WORKER TO PROVIDE FULL-TIME ASSISTANCE WITH ADMINISTRATIVE TASKS RELATED TO CHANGES TO THE EVICTION MORATORIUM

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

WHEREAS, On March 21, 2023, the City Council adopted changes to the COVID-19 Emergency Response Ordinance that established a “Transition Period” May 1, 2023 – August 31, 2023, and an eventual end to the Eviction Moratorium on September 1, 2023; and

WHEREAS, the Public Information Unit, which processes eviction notices and response letters to tenants, will experience an influx of eviction notices during this period that need timely processing; and

WHEREAS, the current staff capacity in the Public Information Unit is not sufficient to complete the administrative tasks associated with processing eviction notices, tenant response letters, and an increased volume of appointments for Housing Counselors; and

WHEREAS, the hiring of temporary staff for a period not to exceed six months will allow the agency to process and respond to the increase volume of eviction notices as well as the anticipated increase in related contacts to other units anticipated to start in May 2023;

WHEREAS, the City of Berkeley currently utilizes ACRO Services Corporation to provide temporary personnel when needed;

NOW, THEREFORE, BE IT RESOLVED that the City of Berkeley Rent Stabilization Board hereby authorizes the Executive Director to increase the purchase order with ACRO Services Corporation by an additional amount not to exceed \$40,000 to allow for one full-time temporary worker to support the agency during the Eviction Moratorium Transition Period and eventual end of the moratorium on September 1, 2023.

Dated: April 20, 2023

Adopted by the Rent Stabilization Board of the City of Berkeley by the following vote:

YES:

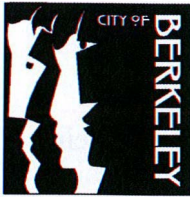
NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chair
Rent Stabilization Board

Attest: _____
DéSeana Williams, Executive Director



Rent Stabilization Board
Legal Unit

DATE: April 20, 2023
 TO: Honorable Members of the Berkeley Rent Board
 FROM: Honorable Members of the LIRA Committee
 By: Matt Brown, General Counsel *MB*
 Ollie Ehlinger, Staff Attorney

SUBJECT: Proposed amendments to Regulations 883 [Waiver of Penalties and Interest on Delinquent Registration Fees] and 884 [Other Waiver Requests] to streamline the waiver process – First Reading

Recommendation

That the Board adopt the proposed changes to Regulations 883 and 884 articulated herein. The LIRA Committee reviewed these amendments on April 3, 2023, and voted to recommend their approval to the full Board.

Background

The Ordinance requires landlords to fully pay annual registration fees on all rental properties on or before July 1 of each year. Following the July 1 deadline, the Board assesses a 100% penalty on all delinquent registration fees.¹ For all delinquent accounts, the Board assesses a further 100% penalty for unpaid registration fees every six months thereafter.

While the Ordinance does not allow the Board to waive the collection of registration fees, it provides broad authority to waive penalties assessed for late payment. The Board adopted Regulations 881, 883, 884, and 885 to govern the waiver process. The Board's goal for the waiver process has historically been compliance rather than punishment. By creating a system where owners with delinquent accounts may come current with fees and penalties without extreme sanction, the Board hopes to incentivize owners to make timely registration fee payments in the future. Moreover, the Board understands that there is a net benefit to having more properties properly registered.

Regulations 883 and 884(C) govern ministerial waivers – waiver requests where, because of the reason for late payment provided by the owner, the regulations empower Rent Board staff to determine the appropriate amount of the penalty to waive. Ministerial waivers include requests for waiver of penalties that arose from staff errors, waiver requests for registration fees the owner pays within 60 days of the due date, waiver requests from new owners of Berkeley rental property, and a catch-all category based on the owner's payment history. Ministerial waivers provide staff a set schedule as a guide to waive various penalties. For instance, Regulation 883(D) allows staff to waive 100% of penalties for a previously registered property which Rent

¹ BMC Section 13.76.080F.

Board staff erroneously failed to bill. Regulation 883(H) applies to owners who fully pay their registration fee within a 60-day period after the due date, and provides staff a schedule to waive penalties, based on the owner's payment history.

Regulation 884(B) contains the provisions for discretionary waivers: waiver requests which require Board staff to weigh a list of factors and provide a recommended waiver amount for Board consideration. Regulation 884(B) does not provide staff with guidance on how to weigh each factor when providing a recommendation to the Board. Therefore, when drafting recommendations to the Board for discretionary waivers, staff must undertake a more extensive, holistic review of the property, and in some cases the owner. For instance, Regulation 884(B)(4) states that one of the factors to be considered when evaluating a discretionary waiver is that two or more of the rental units at the property are not available for rent. Regulation 884(B)(4) does not state how unavailable units affect an owner's waiver request or how to evaluate the unavailable units compared to other factors in the regulation.

Once staff receive a waiver, they review the supporting materials to determine if a discretionary category applies to the request. In that case, the staff prepare an analysis of the request under the factors laid out in Regulation 884(B) and make a recommendation to the Board. If no discretionary categories apply to the waiver, the staff investigate the waiver request as a ministerial waiver.²

Proposed Regulatory Changes

Rent Board staff has identified a few areas in which the waiver process could be improved to promote fairness and administrative efficiency. First, staff has fielded multiple waiver requests from owners who, upon the denial of an initial waiver, assert new and previously undisclosed grounds for a waiver on a subsequent waiver request. Currently, the Regulations do not contain any clear direction regarding the finality of decisions regarding waivers for the Board or staff. The proposed regulations indicate that waiver determinations are final, and no additional requests for waiver may be submitted for the same penalty.

Second, with the inclusion of Measure MM units in the billing cycle, staff recommends extending the period in which an owner can make full payment for registration fees and request a waiver from 60 days to 90 days. With the increase in units for which the Board currently collects registration fees, registration staff spend much of the month of July processing registration payments. Extending this deadline allows registration staff extra time to thoroughly review all accounts as well as pursue informal collection efforts which often lead to increased compliance without a complicated waiver process.³

² In very simple cases where Board staff is able to waive a significant majority or all of the penalty, staff will process the waiver request using the regulatory ministerial relief outlined in Regulation 883. For example, if a landlord has paid the fee late only once in the past six years, staff has the authority to waive 100% of the penalty without having the Board review the application for waiver.

³ For the last several years, the Board has adopted an amnesty period to allow the staff to work with the landlord community to address delinquent accounts. Adding 30 days to the process outlined in Regulation 883(H) will provide a more workable framework for dealing with these penalties and hopefully increase compliance without having to process so many discretionary waiver requests.

Third, the proposed regulations narrow the scope of factors staff must consider for a discretionary waiver recommendation. To the extent possible, the proposed regulations remove factors from discretionary review and place them into the ministerial review. This allows staff to more quickly review a greater amount of waiver requests. To effectuate this, the proposed regulations create new subsections in Regulation 883.

- Proposed Regulation 883(J) applies to waiver requests filed after the Rent Board has started legal action to collect fees and penalties; the corresponding factor in the current discretionary waiver process is Regulation 884(B)(2). The schedule in this proposed subdivision matches the Board’s internal policy for settlement of accounts during a small claims or superior court collection action. Adding this subdivision would prevent a landlord from receiving a larger penalty waiver than what the landlord would be entitled to by settling their court case with the Board.
- Proposed Regulation 883(K) applies to waiver requests filed for a property subject to a rent ceiling reduction or a rent withholding order; the corresponding factor in the current discretionary waiver process is Regulation 884(B)(5). The schedule in this proposed section provides incentives for landlords to quickly comply with hearing orders and encourages compliance with the Ordinance and often times helps to ensure that units are brought to acceptable levels of code compliance with habitability issues.
- Proposed Regulation 883(L) applies to waiver requests for properties with two or more units not available for rent; the corresponding factor in the current discretionary waiver process is Regulation 884(B)(4). The schedule in this proposed section matches staff’s current recommendations for units unavailable due to permitted rehabilitation work.

The proposed additions to Regulation 883 also include the introduction of subparagraph numbering for the existing schedules in Regulation 883, in order to improve readability.

Additionally, the proposed regulations remove certain discretionary waiver factors. The Proposed regulations remove current Regulation 884(B)(3), the discretionary waiver factor for a landlord who has tried to perform a no-fault eviction since 1999. Staff’s rationale for removing this factor is that this factor requires a search through the eviction history of all a landlord’s property since 1999 and creates an administrative burden. Moreover, this provision was first introduced in 2003 when Costa-Hawkins vacancy increases were relatively new and might have been more indicative of a landlord’s increased rental income and thus ability to pay a penalty.

The proposed regulations remove current Regulation 884(B)(9) which allows landlords to assert that they have received foreclosure paperwork as good cause for failing to pay their Rent Board registration fees. Staff’s rationale for removing this factor is that inclusion of it may incentivize a property owner delinquent on their mortgage payments not to attempt to bring their property accounts current if their mortgage delinquency may be factored against granting them a waiver.

To the extent that these proposed regulations direct more waiver requests into ministerial review with set schedules, the regulations still allow for Board review of waiver requests with unique facts. Proposed Regulation 883(M) allows the Executive Director to deviate from the schedules in subsections (H) through (K) if “the interests of justice require” such modification. Additionally, Proposed Regulation 884(B)(7) allows the Executive Director to suggest a waiver

amount for discretionary waivers in the interest of justice, which will provide staff the flexibility needed to address the range of reasons for nonpayment that owners provide.

In circumstances where any of the ministerial categories conflict, the proposed regulation amendments state the Executive Director will apply the greater penalty waiver, which is consistent with the Board's goal of compliance.

Conclusion

This staff report is submitted by the LIRA Committee for the Board's consideration based on staff review of the waiver process. The proposals are particularly timely in that, if adopted prior to July 1, the regulatory amendments will help guide staff and the Commissioners in processing registration fee penalties that come due for the 2023/2024 Fiscal Year. Staff believe the proposed amendments equitably address the goals of administrative efficiency and fairness to the landlord community while at the same time preserving the Commissioners' broad authority to address cases that require discretionary review.

Attached is a draft of the proposed amendments to Regulations 883 and 884. Additions are underlined. Deletions are marked by strikethrough.

Financial Impact

Unknown. It is anticipated that this proposal will reduce the amount of time staff spends on waivers. These proposed regulatory changes should not significantly impact the amount of penalties the Board or staff waive but will hopefully increase compliance with the Ordinance.

Name and Telephone Number of Contact Person

Matt Brown, General Counsel (510) 981-4930

Attachments:

1. Proposed Amendments to Regulation 883
2. Proposed Amendments to Regulation 884

883. Waiver of Penalties and Interest on Delinquent Registration Fees

A landlord who is assessed a penalty pursuant to Regulation 881 may request ~~that~~ the Board to waive all or part of the penalty by showing good cause for the delinquent payment. In order to implement the provisions of Section 8(f) of the Rent Stabilization Ordinance, the Board has determined that the following circumstances constitute good cause for waiver of penalties. When substantial delays in billing or delays in reconciling accounts are attributable to City staff, the penalties otherwise due ~~will~~ **shall** be waived. Additionally, when a landlord discovers that they failed to pay registration fees through their inadvertence and promptly makes full payment of registration fees, penalties may be waived or reduced as set forth in subsections (H)-(L). The Rent Board Executive Director, or his or her designee, is empowered to waive late payment penalties under the following circumstances:

- (A) An invalid or erroneous account number was assigned, which resulted in billing errors or improper crediting of payments by the landlord.
- (B) The landlord was billed for a fewer number of units because of errors in property records maintained by the City where the error was not attributable to information supplied by the landlord. The penalties are waived only for unbilled units; the billed units should be paid on time.
- (C) The billing address of the landlord has not been corrected after the owner had notified the Board in writing of a change of address.
- (D) A previously registered property was not billed as a result of staff error.
- (E) A property account was erroneously closed for reasons not attributable to the landlord, and the account is subsequently reopened and billed.
- (F) The determination of whether or not the property was subject to the Ordinance required an analysis by Rent Board legal staff. Penalties ~~will~~ **shall** be waived only while the legal opinion is pending. If the landlord raised the issue requiring legal determination, penalties ~~will~~ **shall** be waived only from the date of the first written contact with the Board in which the issue was raised.

Waiver of penalties ~~will~~ **shall** not be granted if the legal staff determines that the issue raised is already settled and/or has no substantial merit. If the legal issue was raised by Rent Board staff, the waiver period commences on the date on which the legal opinion was requested by the staff.

In all situations in which a legal opinion was requested, the waiver period terminates when the landlord is notified of the legal determination regarding the status of his/her property. In all cases in which a waiver is granted pursuant to the provisions of this subsection, penalties ~~will~~ **shall** again accrue if the bill is not paid within 30 days after the error has been corrected and the landlord has been notified of the determination of the status of his/her property under the Ordinance.

(G) Other errors in billing or reconciling accounts are directly attributable to Rent Board or City staff.

(H) The late payment of a fee due on July 1st is made, without deliberate delay, by ~~August 30th~~ **September 30th** of the same year (within ~~60~~ **90** days of the July 1st due date), and all other balances due are paid within that time. In such case, the Executive Director ~~will~~ **shall**, except as provided in subsection (J) below, waive the penalties based on the landlord's payment history for the property in accordance with the following schedule:

- 1.** For the first late payment within the prior six years, - 100% of penalties waived;
- 2.** For the second late payment within the prior six years, - 90% of penalties waived;
- 3.** For the third late payment within the prior six years - 75% of penalties waived;
- 4.** For the fourth late payment within the prior six years - 55% of penalties waived;
- 5.** For the fifth late payment within the prior six years - 30% of penalties waived;
- 6.** For the sixth late payment within the prior six years - waiver denied.

For the purposes of this subsection (H), "landlord" means the current property owner . However, if the landlord was not a bona fide purchaser for value, this definition includes the immediate predecessor owner.

(I) A new owner with no other residential rental property in Berkeley was unaware of the property registration requirements of the Rent Ordinance and registered the property within 12 months of acquiring title to the property. In such case, the Executive Director ~~will~~ **shall**, except as provided in subsection (~~J~~**M**) below, waive the penalties in accordance with the following schedule:

- 1.** The property contains 1 or 2 rental units - 100% of penalties waived;
- 2.** The property contains 3 to 5 rental units - 90% of penalties waived;
- 3.** The property contains 6 to 10 rental units - 75% of penalties waived;
- 4.** The property contains 11 to 20 rental units - 50% of penalties waived;

If a property covered by the above schedule is registered between 12 and 24 months after the new owner acquired title, the percentage of penalties waived ~~will~~ **shall** decrease by 10%. Waiver requests for new owners of property containing more than 20 units or of properties that were not registered within 24 months of acquiring title ~~will~~ **shall** be evaluated pursuant to Regulation 884(B).

~~This subsection (I) does not apply if a prior owner incurred penalties that are outstanding and subject to review under any circumstance listed in Regulation 884(B), except subsections 884(B)(5) and (B)(6).~~

(J) The waiver request was filed following the referral to and initiation of legal action by the Rent Board to recover unpaid registration fees. In such case, the Executive Director shall,

except as provided in subsection (M) below, waive the penalties in accordance with the following schedule:

1. The waiver request was filed during the period when the property was identified for additional collection efforts by Rent Board staff but prior to the filing of a complaint in small claims or Superior Court- 50% of penalties waived;
2. The waiver request was filed after the filing of a complaint in small claims or Superior Court but before the date of a small claims trial or dispositive motion or hearing- 40% of penalties waived.

(K) Within the past 5 years, as the result of a petition filed by a current tenant at the property or relating to the current tenancy, the Board has reduced the rent ceiling at the property or issued an order to the landlord to register the property. In such case, the Executive Director shall waive the penalties in accordance with the following schedule:

1. The rent ceiling reduction order or order to register is active - waiver denied;
2. The landlord complied with the Board's order within the past year- 40% of penalties waived;
3. The landlord complied with the Board's order greater than one 1 year but less than 3 years before the request - 60% of penalties waived;
4. The landlord complied with the Board's order greater than 3 years but less than 5 years before the request- 80% of penalties waived.

In such cases where there is a dispute regarding compliance with an active rent ceiling reduction order or order to register, the request shall be considered by the Board as a discretionary waiver.

(L) Two or more rental units on the property were not available for rent due to substantial construction or rehabilitation. In such case, the Executive Director shall, upon receipt of proof of such construction or rehabilitation, waive 100% of the penalties for the period in which the units were not available for rent. In order to qualify for this waiver, the construction or rehabilitation must be fully permitted by the appropriate City of Berkeley department.

~~(J)~~ (M) The payment schedules in subsections (H) ~~and~~ through (I L) above shall not apply if the Executive Director, or his or her designee, recommends that the Board review the request under Regulation 884(B) because the interests of justice require that a greater or lesser amount be waived.

(N) If two or more of the above categories apply to a waiver request, the Executive Director shall apply the subdivision which allows for the greater penalty waiver. This subdivision shall not apply to a waiver request that arises under section (K)(1), where the property is subject to an active rent ceiling reduction or rent withholding order.

884. Other Waiver Requests

(A) Waiver requests for good cause that do not meet the criteria enumerated in Regulation 883 ~~will~~ **shall** be referred to the Executive Director for review. The Executive Director, or his or her designee, ~~will~~ **shall** evaluate the request and determine if it should be reviewed ministerially by staff, or on a discretionary basis by the full Board. The Board ~~will~~ **shall** examine whether there is good cause to waive some or all of the penalties. If the landlord's request does not arise under the circumstances set forth in subsections (H) or (I) of Regulation 883, the Executive Director, or their designee, may forward waiver requests to the Board for discretionary review, when the Executive Director recommends that the Board review the request.

The decision the Board reaches for each waiver request shall be final, and the Board shall not further review waiver requests associated with the same penalty.

(B) Discretionary Waivers. The determination of good cause for a waiver of penalties depends on the totality of the circumstances in the following categories:

(1) The good cause asserted in the waiver request is a death or illness in the landlord's family and the landlord provides sufficient documentation to support their request;

~~(2) The waiver request was filed following the initiation of legal action by the Rent Board to recover unpaid registration fees;~~

~~(3) Rent Board records indicate that, on or after January 1, 1999, the landlord requesting the waiver had served a notice of termination of tenancy pursuant to Civil Code section 1946, 1946.1, or 1954.535, or a notice of intent to withdraw accommodations pursuant to Berkeley Municipal Code section 13.77.050 (Ellis Act);~~

~~(4) Two or more rental units at the property for which the waiver is requested are not available for rent;~~

~~(5) A tenant at the property for which the waiver is requested filed an Individual Rent Adjustment or Rent Withholding petition during the prior five years;~~

~~(6) The landlord requesting the waiver owns or manages 11 or more rental units;~~

~~(7) The landlord requesting the waiver was not the owner of the property when the penalty first accrued;~~

~~(8) The penalty has accrued because registration fees have not been paid for three or more fiscal years;~~

~~(9) A notice of default or notice of sale for the property has been recorded with the county recorder's office pursuant to Civil Code section 2924, within the past five years;~~

(105) The landlord has paid late each year for the prior five years;

(116) The Executive Director, or his or her designee, recommends that the interests of justice require that a greater or lesser amount be waived.

(127) 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.

(C) Ministerial Waivers. For all other waiver requests, the landlord's recent payment history ~~will~~ **shall** determine penalties using the following schedule:

First late payment within the prior five years -	100% of penalties waived;
Second late payment within the prior five years -	80% of penalties waived;
Third late payment within the prior five years -	60% of penalties waived;
Fourth late payment within the prior five years -	40% of penalties waived.
Fifth late payment within the prior five years -	the waiver request will shall be decided by the full Board in accordance with Regulation 884(B)(10).

(D) For the purposes of this Regulation 884, "landlord" means the current property owner. However, if the landlord was not a bona fide purchaser for value, this definition includes the immediate predecessor owner.

(E) Where a waiver of penalties paid to the Board is granted in whole or in part, the amount of the waiver ~~will~~ **shall** be credited to the landlord's account to offset future registration fees unless the Executive Director, upon written request of the landlord, determines that there is good cause to issue a refund.

(F) A waiver of penalties granted under this regulation is conditional upon payment of the balance due within the time period designated by the Executive Director or the full Board.

[Amended February 5, 1999; amended August 21, 2000 by changing the initial review of requests for waiver of late registration penalties from a Board Commissioner to a Hearing Examiner and setting forth grounds for waiver of late registration penalties as listed in A through

F; amended June 24, 2003, eliminating former A – F and adding (B) 1 - 8 and various other changes; amended December 13, 2010, by clarifying the Executive Director’s role in (A), eliminating service of a 3-day notice as triggering a discretionary waiver in (B) 3, adding (B) 9 – 11, establishing a new schedule in (C), defining landlord for this regulation in (D), and making various other changes. Amended July 30, 2012 by adding subsection (12) to Section (B), which adds compliance with Soft Story Ordinance as criterion for discretionary waiver requests.]



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: April 20, 2023

TO: Honorable Members of the Rent Stabilization Board

FROM: DéSeana Williams, Executive Director

BY: Amanda Eberhart, Registration Unit Manager

SUBJECT: 1951 Chestnut: Request for waiver of late registration penalties

Recommendation:

Upon further research into the LLC's full portfolio, the payment history of properties owned in the City of Berkeley, the registration compliance questions regarding 2072 Addison, and the totality of the circumstances presented, staff recommends the Board deny the waiver.

Background and Need For Rent Stabilization Board Action:

The Board's penalty waiver process is governed by Regulations 883, 884 and 885. 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).

Discretionary Waivers

For the waiver request 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
W5053	1951 Chestnut	RUEGG & ELLSWORTH LLC	9,000	0	9,000
TOTAL			9,000	0	9,000

Analysis and Recommendation

On November 30, 2022, Rent Board staff received a request for waiver of penalties from Lapham Company, the property management entity for 1951 Chestnut. In their initial waiver request, the property manager implied confusion about who was paying the registration fee. The property manager and the LLC believed the other entity had paid the registration fee.

On March 16, 2023, the waiver for 1951 Chestnut was presented to the Board. Staff presented the initial summary below:

The current owner has owned the 36-unit multi-residential property at 1951 Chestnut St since January 2022. Unfortunately, the current owner did not have any financial history to review. In the last five fiscal years, the prior owner made no late payments. The property manager states in their waiver that “the property management staff thought the owner paid, and the owner thought the property management company paid the 22/23 registration fee”. Unfortunately, neither party paid by the July 1 deadline. Under regulation 884 B (6), this property owns more than 11 units and must be heard by the Board. However, under Regulation 884 C, this property qualifies to have 100% of the penalty fee waived based on payment history. Staff recommends waiving 100% of the penalties.

At the Board meeting, the Commissioners requested staff to conduct additional research into the LLC to clarify and confirm the LLC’s entire property portfolio in the City of Berkeley. Based on research conducted in collaboration with Rent Board Planning colleagues and the Berkeley Planning Department, the following information was uncovered:

Ruegg & Ellsworth LLC

- Ruegg & Ellsworth LLC is a developer in the City of Berkeley
- The LLC currently own 4 other properties in Berkeley
- 2942 College
 - 6 units
 - Application/Permit pending
- 2480 Bancroft
 - 28 units over 1 commercial space
 - Application/permit pending
- 2072 Addison
 - 60 units over 1 commercial space
 - The property was scheduled to be completed in 2022
 - Their website is advertising 1- and 2- bedroom apartments
 - County records lists the property as a vacant apartment
 - It is also currently not registered with the Rent Board
- 2526 Durant
 - 44 units over 2 commercial spaces
 - The property is registered with the Rent Board as New Construction and is partially covered

Waiver Recommendations

April 20, 2023

Page 3

- This property is also managed by Lapham company
- This property has paid the 21/22 and the 22/23 registration fees late. For each of those registration years, the property was granted either an Administrative waiver or a Covid Waiver.
- Total Penalties waived over two years: \$12,600

Upon further research into the LLC's full portfolio, the payment history of properties owned in the City of Berkeley, the registration compliance questions regarding 2072 Addison, and the totality of the circumstances presented; staff recommends the Board deny the waiver.

Financial Impact: Discretionary Waivers

Approval of Executive Director's recommendations will decrease the Board's current accounts receivable by **\$0.00**.

Name and Telephone Number of Contact Person:

DéSeana 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: W5078	Property address: 1951 CHESTNUT ST	Transferred: 01/24/2021
Exempt units (as of February 2021): None		
Owner(s): RUEGG & ELLSWORTH LLC	Waiver filed by: PROPERTY MANAGER	# of Units: 36
Other Berkeley rental property owned: None		

Late payment/penalty history: Unfortunately, the current owner did not have any financial history to review. In the last five fiscal years the prior owner did not make any late payments.

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: Owns or manages more than 11 units

Registration Date or Year	Unit(s) registered late at this time	Registration fees paid	Date fees paid	Penalties charged	Penalties forgiven	Penalties Due
FY2022-23	36	\$9,000.00	12/06/2022	\$9,000.00	\$0.00	\$9,000.00
Totals				\$9,000.00	\$0.00	\$9,000.00

Grounds under Regulation 884(B): (6) The landlord requesting the waiver owns or manages 11 or more rental units

Good cause claimed by owner: There was confusion between the property owner and the property management company on who was going to pay the 22/23 registration fee.

Recommendation: Staff recommends waiving 100% of the penalty fee.

Staff Analysis: The 36-unit multi-residential property located at 1951 Chestnut St has been owned by the current owner since January 2022. Unfortunately, the current owner did not have any financial history to review. In the last five fiscal years the prior owner did not make any late payments. The property manager states in their waiver that, "the property management staff thought the owner paid and the owner thought the property management company paid the 22/23 registration fee". Unfortunately, neither party paid by the July 1st deadline. Under regulation 884 B (6), this property owns more than 11 units and must be heard by the Board. However, under Regulation 884 C, this property qualifies to have 100% of the penalty fee waived based on payment history.

RECEIVED

DEC 6 - 2022

Initial: Berkeley Rent Board

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>

Request for Waiver of Late Registration Penalties
Please Read Important Information on Page 2

Property Address: 1951 Chestnut Street, Berkeley 94702

Owner: Ruegg & Ellsworth LLC

Date of acquisition, if new owner: _____

Name & relationship of person filing request, if not owner: Jon Shahanian / Lapham Company - property mgr.

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.

The Lapham Company, Inc. was retained as Property Manager of 1951 Chestnut Street at close of purchase escrow. In the new onboarding process, our office staff believed that The Ruegg & Ellsworth office had completed the registration. And the Ruegg & Ellsworth office assumed that Lapham Company had completed the registration. We did not know of the failure to register until we received the penalty notice.

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

Date: 11/30/2022 Signature: [Signature] property manager / Agent

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: Jon@laphamcompany.com

Mailing Address: 4844 Telegraph Avenue, Oakland, CA 94609

Phone Number: 510-594-7600 ext 102 Fax Number: 510-594-7611

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

**Commissioner Attendance at Rent Stabilization Board Meetings
Through Q1 of 2023**

2023	Soli ALPERT	Stefan ELGSTRAND	Xavier JOHNSON	Andy KELLEY	Vanessa Danielle MARRERO	Ida MARTINAC	Nathan MIZELL	Leah SIMON-WEISBERG	Dominique WALKER
January 19	Present	Present	Present	Present	Present	Present	Present	Present	Present
February 16	Present	Present	Present	Present	Present	Present	Present	Present	Present
March 16	Present	Present	Present	Present	Present	Present	Present	Present	Present
April 20									
May 18									
June 15									
July 20									
August 17									
September 21									
October 19									
November 16									
December 21									

* = Absent *with* compensation

** = Absent due to a medical reason

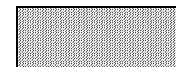
Bold and italicized = Special Meeting

**Commissioner Attendance
Rent Stabilization Board COMMITTEE Meetings:
January - March (Q1)**

COMMITTEES	Soli ALPERT	Stefan ELGSTRAND	Xavier JOHNSON	Andy KELLEY	Vanessa Danielle MARRERO	Ida MARTINAC	Nathan MIZELL	Leah SIMON-WEISBERG	Dominique WALKER
<i>Budget & Personnel</i>									
Thursday, February 9, 2023	Present						Present	Present	Present
Wednesday, February 22, 2023	Present						Present	Absent	Present
<i>Eviction / Section 8 / Foreclosure</i>									
Wednesday, March 8, 2023		Present	Present			Present	Present		
<i>LIRA</i>									
Monday, February 6, 2023	Present			Present		Present	Present		
<i>Outreach</i>									
Tuesday, January 31, 2023	Present	Present		Present	Present				
Wednesday, February 15, 2023	Present	Present		Present	Present				
Thursday, March 9, 2023	Present	Present		Present	Present				
<i>4 x 4 Joint Committee on Housing (City Council/Rent Board)</i>									
Wednesday, February 1, 2023	Present		Present		Present				Present
Wednesday, February 15, 2023			Present		Present			Present	Present
<i>2 x 2 Committee on Housing (BUSD/Rent Board)</i>									
<i>This Committee did not meet this quarter.</i>									
<i>Ad Hoc Committee on Environmental Sustainability</i>									
<i>This Committee did not meet this quarter.</i>									

^ = Meeting cancelled due to lack of a quorum

* = Absent with compensation



= Not a member of this Committee at this time

2023 Unanticipated Remote Participation at Rent Board and Committee Meetings									
Soli ALPERT									
Stefan ELGSTRAND									
Xavier JOHNSON									
Andy KELLEY	03/09/2023 Outreach Committee Emergency Circumstances								
Vanessa Danielle MARRERO									
Ida MARTINAC									
Nathan MIZELL									
Leah SIMON-WEISBERG									
Dominique WALKER									



Rent Stabilization Board

RENT STABILIZATION BOARD
EVICTON / SECTION 8 / FORECLOSURE COMMITTEE MEETING

Tuesday, April 11, 2023

6:00 p.m.

Rent Stabilization Board Law Library – 2001 Center Street, 2nd floor, Berkeley, CA 94704

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/86906094096?pwd=OTRZOFN6b2gyeUdKUks4N2FpZ2NRZz09>. 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: 869 0609 4096 and Passcode: 808455. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Committee Chair.

To submit an e-mail comment for the Committee's consideration and inclusion in the public record, email oeHLinger@cityofberkeley.info with the Subject line in this format: "PUBLIC COMMENT ITEM FOR EVICTON/SECTION 8 COMMITTEE". Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 4:00 p.m. on the day of the Committee 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. Questions regarding this matter may be addressed to DéSeana Williams, Executive Director of the Rent Board, at 510-981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



Rent Stabilization Board

RENT STABILIZATION BOARD
EVICTIION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

Tuesday, April 11, 2023 – 6:00 p.m.

Rent Stabilization Board Law Library – 2001 Center Street, 2nd floor, Berkeley, CA 94704

AGENDA

1. Roll call
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 the Agenda
4. Approval of Minutes of the March 8, 2023 meeting
5. Public Comment
6. Discussion and possible action regarding Committee masking policy
7. Discussion and possible action regarding agency preparation in response to the Berkeley COVID Eviction Moratorium sunset
8. Discussion and possible action regarding agency's procedures upon receiving an eviction notice
9. Discussion and possible action regarding Committee work plan
10. Confirm next meeting date
11. Adjournment

STAFF CONTACT: Ollie Ehlinger, Staff Attorney – (510) 981-4924
COMMITTEE: Stefan Elgstrand (Chair), Xavier Johnson, Ida Martinac, Nathan Mizell



Rent Stabilization Board

RENT STABILIZATION BOARD
LEGISLATION, IRA / AGA & REGISTRATION COMMITTEE MEETING

Monday, April 3, 2023

5:30 p.m.

Rent Stabilization Board Law Library – 2001 Center Street, 2nd floor, Berkeley, CA 94704

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/81340716120?pwd=elpLOTBiRkRrVElQOWFnODh2d0k5QT09>. . 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 4071 6120 and Passcode: 866547. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Committee Chair.

To submit an e-mail comment for the Committee’s consideration and inclusion in the public record, email mbrown@cityofberkeley.info with the Subject line in this format: “PUBLIC COMMENT ITEM FOR LIRA COMMITTEE”. Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 3:30 p.m. on the day of the Committee 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. Questions regarding this matter may be addressed to DéSeana Williams, Executive Director of the Rent Board, at 510-981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



Rent Stabilization Board

RENT STABILIZATION BOARD

LEGISLATION, IRA / AGA & REGISTRATION COMMITTEE MEETING

Monday, April 3, 2023 – 5:30 p.m.

Rent Stabilization Board Law Library – 2001 Center Street, 2nd floor, Berkeley, CA 94704

AGENDA

1. Roll call
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 the agenda
4. Approval of minutes from the February 6, 2023 meeting (Attached to agenda)
5. Public Comment
6. Discussion and possible action to recommend that full Board approve changes to Regulations 883 and 884 (See attached Staff Report)
7. Discussion and possible action regarding sanction options for failure to produce Vacancy Registration Forms for current tenancies (See attached staff report)
8. Discussion and possible action regarding future agenda items
 - ➔ Expansion or extension of certain City services to all residents (Commissioner Kelley)
 - ➔ Potential Rules and/or Regulations for digital or keyless entry (Commissioner Kelley)
 - ➔ Potential Regulation regarding Occupancy Subleases (Commissioner Johnson/Alpert)
 - ➔ Inventory of Proposed Amendments to the Ordinance (Commissioner Alpert)
 - ➔ Potential items for the 2024 ballot initiatives (Commissioner Alpert)
9. Confirm next meeting date
10. Adjournment

STAFF CONTACT: Matt Brown, General Counsel (510) 981-4930

COMMITTEE: Soli Alpert, Andy Kelley (Chair), Ida Martinac, Nathan Mizell



Rent Stabilization Board

RENT STABILIZATION BOARD OUTREACH COMMITTEE MEETING

Monday, April 10, 2023

5:30 p.m.

Rent Stabilization Board Law Library – 2001 Center Street, 2nd floor, Berkeley, CA 94704

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/82976298342?pwd=cmJxWGUva255SkVpTlBaZ3R5WFRpUT09>. 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: 829 7629 8342 and Passcode: 681200. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Committee Chair.

To submit an e-mail comment for the Committee's consideration and inclusion in the public record, email ndahl@cityofberkeley.info with the Subject line in this format: "PUBLIC COMMENT ITEM FOR OUTREACH COMMITTEE". Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 3:30 p.m. on the day of the Committee 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. Questions regarding this matter may be addressed to DéSeana Williams, Executive Director of the Rent Board, at 510-981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



Rent Stabilization Board

RENT STABILIZATION BOARD OUTREACH COMMITTEE MEETING

Monday, April 10, 2023 – 5:30 p.m.

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AGENDA

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 the Agenda (2 min)
4. Approval of the Minutes of the March 9, 2023 Meeting (5 min)
5. Public Comment (5 min)
6. Outreach Efforts Related to Transition and End of Eviction Moratorium (25 min)
7. Update on Tenant Survey Progress and Timeline (3 min)
8. Update on Rent Board Outreach Activities and Metrics Tracking (15 min)
9. Next Meeting Scheduled for May 8, 2023 (2 min)
10. Future Agenda Items (5 min)
 - Eviction Moratorium Outreach Efforts
 - Rent Board Outreach Activities and Metrics Tracking
 - Review of Draft Data Results from Tenant Survey
 - 2022 Counseling Data (calls, emails, appts. counseling cases)
 - Exploring Costs of Ads (Bart, Bus)



Rent Stabilization Board

11. Announcements (5 min)
 - Rent Board at Bay Festival April 22, 2023.
12. Adjournment (2 min)

STAFF CONTACT: Nathan Dahl, Public Information Unit Manager (510) 981-4935

COMMITTEE: Soli Alpert (Chair), Stefan Elgstrand, Andy Kelley, Vanessa Marrero