



Rent Stabilization Board

RENT STABILIZATION BOARD
EVICTION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

Tuesday, July 18, 2023 – 5:00 p.m.

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

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/83974776840?pwd=MnFOSFFGQ0dicHBMRnpvNGhJWFdJUT09>. 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: 839 7477 6840 and Passcode: 528359. 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 EVICTION/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 3:00 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 at the posted location(s). 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.



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

RENT STABILIZATION BOARD
EVICITION / SECTION 8 / FORECLOSURE COMMITTEE MEETING

Tuesday, July 18, 2023 – 5:00 p.m.

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

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 April 11, 2023 meeting
5. Public Comment
6. Discussion and possible action regarding Distressed Property/Foreclosure Report
7. Confirm next meeting date
8. 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

EVICITION / 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

MINUTES – (*Unapproved*)

1. Roll call: Ollie Ehlinger called Roll
Members present: Elgstrand, Johnson, Martinac (attended remotely) and Mizell.
Staff present: O. Ehlinger
2. Land Acknowledgment Statement: The Land Acknowledgment Statement was played.
3. Approval of the Agenda: M/S/C (Mizell/Martinac) Motion to approve the agenda. Roll call vote. YES: Elgstrand, Johnson, Martinac and Mizell; NO: None; ABSTAIN: None; ABSENT: None. Carried 4-0-0-0.
4. Approval of Minutes of the March 8, 2023 meeting: M/S/C (Mizell/Johnson) Motion to approve the March 8, 2023 meeting minutes. Roll call vote. YES: Elgstrand, Johnson, Martinac and Mizell; NO: None; ABSTAIN: None; ABSENT: None. Carried 4-0-0-0.
5. Public Comment: No public comment.
6. Discussion and possible action regarding Committee masking policy: M/S/C (Elgstrand/Johnson) Motion to recommend that masks are strongly encouraged but not required at the Eviction, Section 8 Foreclosure Committee Meetings. Roll call vote. YES: Elgstrand, Johnson and Martinac; NO: None; ABSTAIN: Mizell; ABSENT: None. Carried 3-0-1-0.
7. Discussion and possible action regarding agency preparation in response to the Berkeley COVID Eviction Moratorium sunset: Committee Staffer Ehlinger gave a brief presentation on the Agency's ongoing outreach ahead of the current Berkeley Eviction Moratorium sunset, and no action was taken.
8. Discussion and possible action regarding agency's procedures upon receiving an eviction notice: Committee Staffer Ehlinger gave a brief presentation on the Agency's procedures following notice of intent to evict, the committee members asked follow up questions, and no action was taken.

9. Discussion and possible action regarding Committee work plan: The Committee discussed and agreed upon the proposed Committee meeting dates and future workplan, and no action was taken.
10. Confirm next meeting date: Next meeting scheduled for Tuesday, June 13, 2023 at 6:00 p.m.
11. Adjournment: M/S/C (Johnson/Mizell) Motion to Adjourn. Roll call vote. YES: Elgstrand, Johnson, Martinac and Mizell; NO: None; ABSTAIN: None; ABSENT: None. Carried 4-0-0-0. meeting adjourned at 6:33 p.m.

STAFF CONTACT: Ollie Ehlinger, Staff Attorney – (510) 981-4924

COMMITTEE: Stefan Elgstrand (Chair), Xavier Johnson, Ida Martinac, Nathan Mizell



Rent Stabilization Board
Legal Department

MEMORANDUM

DATE: July 18, 2023

TO: Members of the Eviction/Section 8/Foreclosure Committee

FROM: Oliver Ehlinger, Staff Attorney

SUBJECT: Distressed Properties/Foreclosure Report

Each month, the Rent Board receives a list of properties in the City of Berkeley that are at some stage in foreclosure proceedings. Rent Board staff reviews the list and sends an informational letter to the occupants of each residential unit on any property appearing on the list for the first time.¹ The letter informs the occupants that foreclosure is not a good cause for eviction.

From 2009 through January 2015 the City's Finance Department sent the Board information regarding distressed properties identified by a company named RealQuest. Starting in February 2015, the Board began generating these reports in house. While some of the properties are actually foreclosed or are in the process of foreclosure, the list does not necessarily represent an accurate count of the number of foreclosures in Berkeley. The list includes properties where the owners have received notices of default or other indications of distress.

In the past, there were a number of months when the list was not made available to the Rent Board due to circumstances outside of the Board's control. Generally, numbers for the subsequent months will appear somewhat inflated as these numbers include the month(s) during which the lists were not delivered. Staff believes that the yearly totals more or less accurately reflect the number of properties with any foreclosure activity.

At the Commissioners' request, staff has also attached a sheet that provides information regarding the designation of properties to which the Board sends letters (e.g. how many letters

¹ Rental units often appear on the list during successive months, but Board staff does not send letters to units where a letter was previously sent.

are sent to single family homes, duplexes, triplexes, etc.). The attachment includes information going back to April 2012.

On March 4, 2014, the Committee made recommendations to revise the letter the Board sends to units that appear on the list. When the Board first started sending letters to distressed properties, the Committee had requested that Board staff send the letter only to units that appeared to be tenant-occupied. At the March 4, 2014 meeting, however, the Committee requested that the letter also be sent to units that appeared to be owner-occupied, and the Commissioners suggested language to add to the letter regarding referrals for property owners.² As of April 2014 these changes have been incorporated by staff.

The number of distressed properties this year is again down considerably compared to when the region was at the height of the foreclosure crisis. A majority of the letters sent have been directed to properties where at least one unit is owner-occupied with most being Costa-Hawkins Single Family homes. While a majority of our contacts is with property owners, staff thinks it important to continue to notify tenants of their rent control rights in these situations since many banks or corporate purchasers are still unaware of the rent control protections that remain in the event of foreclosure (e.g. the tenant household's right to remain unless the landlord has good cause to evict).

Beginning in March 2009, letters have been mailed to the following number of units on properties for which the Board receives information:

2009 Calendar Year: 571

2010 Calendar Year: 375

2011 Calendar Year: 303

2012 Calendar Year: 234

2013 Calendar Year: 115

2014 Calendar Year: 189

2015 Calendar Year: 199

2016 Calendar Year: 125

2017 Calendar Year: 95

² The Committee suggested that property owners contact Housing and Economic Rights Advocates (HERA) and asked staff to contact the organization to make sure it was willing to accept the referrals. Staff did so and HERA agreed to allow the Board to put its information in the letters.

2018 Calendar Year: 90

2019 Calendar Year: 39

2020 Calendar Year: 64

2021 Calendar Year: 49

2022 Calendar Year: 49

2023 Calendar Year to Date:

SFH's: 8

Duplex: 4

Triplex: 1

17-Unit: 1

Fraternity: 1

Total Units/Letters mailed: 38



Si Ud. habla español y desea mas informacion sobre reposicion de vivienda o desalojos, favor de llamarle a Matt Brown. Telefono (510) 981-7368

(Date)

Occupant
Street Address
City, State ZIP

Re: Foreclosure and Evictions

Dear Occupant:

The Rent Board has learned that a Notice of Default or Notice of Foreclosure was filed for the property in which you are living. Our records indicate that you may be protected by the Berkeley Rent Stabilization and Eviction for Good Cause Ordinance. Because Berkeley tenants have unique rights and protections, we mail this letter to all units that may contain a tenant. If you are a property owner, you may also have rights concerning foreclosure and may wish to contact the Housing and Economic Rights Advocates at (510) 271-8443, ext. 300. In addition, if you are contemplating selling your property, you may wish to contact either the Northern California Land Trust at (510) 548-7878 (nclt@nclt.org) or the Bay Area Land Trust at (510) 545-3258 (info@bayareact.org).

Tenants in Berkeley may only be evicted for good cause; e.g., nonpayment of rent, breach of the lease, etc. (See Berkeley Municipal Code section 13.76.130.) **The fact that a property owner defaults on loan payments causing the lending bank to foreclose on the property is not good cause for evicting the tenants residing at the property.**

California Code of Civil Procedure Section 1161b. provides that tenants retain rights under local rent control law following foreclosure. In addition to eviction protections, rents for most Berkeley tenants cannot be increased without approval of the Berkeley Rent Board. The new property owner is responsible for returning your full security deposit (unless the landlord would otherwise be entitled to deduct for damage to the property). Interest on that deposit is due when you vacate the unit.

Under state law, all new owners (including banks) must notify tenants of an ownership change within 15 days of the change and must instruct tenants where rent is to be paid.

If you are a tenant and have received an eviction notice, been asked to vacate, or otherwise have questions concerning your rights under the Berkeley Rent Ordinance, please speak with a Rent Board counselor at (510) 981-7368 Monday, Tuesday, Thursday, and Friday from 9:00 a.m. to 4:45 p.m. or Wednesday from 12:00 noon to 6:30 p.m. or come into our office at 2125 Milvia Street in downtown Berkeley.

Sincerely,

A handwritten signature in blue ink, appearing to read "DéSeana Williams".

DéSeana Williams
Executive Director