



RENT STABILIZATION BOARD
ENVIRONMENTAL SUSTAINABILITY COMMITTEE

Wednesday, January 10, 2024 – 6:00 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/89416104529?pwd=b_uZzW7ivtXNC-Wm_blfqja6PNx0w.GVXexMthLH1Rt2ys.

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: 894 1610 4529 and Passcode: 263897.

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 email comment for the Committee's consideration and inclusion in the public record, email ndahl@berkeleyca.gov with the Subject line in this format: "PUBLIC COMMENT ITEM FOR ENVIRONMENTAL SUSTAINABILITY 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 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
ENVIRONMENTAL SUSTAINABILITY COMMITTEE

Wednesday, January 10, 2024 – 6:00 p.m.
Rent Stabilization Board Law Library – 2001 Center Street, 2nd floor, Berkeley

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 uncanceled 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. Public Comment (5 min.)
5. Approval of November 1, 2023 Meeting Minutes (2 min.)
6. Update on Data Set of Housing Services Paid for by Landlords (Gas, Heat Electric) (5 min.)
7. Disclosures on Leases for Energy Efficiency and Costs (20 min.)
8. Report from Chair Martinac on latest developments from CPUC affecting multi-family solar in Berkeley Rental Housing (10 min.)
9. Announcements (5 min.)
10. Next Meeting (2 min.)
11. Future Agenda Items (5 min.)
12. Adjournment (2 min.)

STAFF CONTACT: Nathan Dahl, Public Information Unit Manager (510) 981-4935
COMMITTEE: Ida Martinac (Chair), Stefan Elgstrand, Xavier Johnson, Andy Kelley



RENT STABILIZATION BOARD
ENVIRONMENTAL SUSTAINABILITY COMMITTEE

Wednesday, November 1, 2023 – 5:30 p.m.

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

Minutes (Unapproved)

1. Roll call: N. Dahl called Roll.
Members present: Elgstrand, Johnson, and Martinac.
Staff Present: N. Dahl
2. Land Acknowledgment Statement: The Land Acknowledgment Statement was played.
3. Approval of the Agenda: M/S/C (Johnson/Elgstrand) Motion to approve the Agenda. Voice vote. Carried: 3-0-0-0.
4. Public Comment: None.
5. Approval of September 6, 2023 Meeting Minutes: M/S/C (Elgstrand/Johnson) Motion to approve the September 6, 2023 Meeting Minutes. Voice vote. Carried: 3-0-0-0.
6. Review of RHSP Annual Checklist form and Rent Board VR Form: No Action Taken.
7. Review of Data Set of Housing Services Paid for by Landlords (Gas, Heat Electric): No Action Taken.
8. Announcements: No announcements.
9. Adjournment: M/S/C (Johnson/Elgstrand). Motion to adjourn. Voice vote. Carried: 3-0-0-0. Meeting adjourned at 7:13 p.m.

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

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



Kate Harrison
Councilmember, District 4

ACTION CALENDAR
January 16, 2024

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Adopt Ordinance Adding Chapter 13.63 to the Berkeley Municipal Code to Require Energy Consumption and Cost Disclosure on Lease of Housing and Commercial Units

RECOMMENDATION:

Adopt Ordinance adding Chapter 13.63 to the Berkeley Municipal Code to require landlords to disclose average unit energy consumption and cost on leases.

CURRENT SITUATION AND RATIONALE FOR RECOMMENDATION

A recent analysis of U.S. Census Bureau data found that residential tenants in the majority of Berkeley ZIP codes pay an alarming and unsustainable 33-51% of their income on rent.¹ Residential rent in Berkeley typically does not include the cost of utilities which, on average across the Pacific Gas and Electric Company's service territory, is an additional \$240.73 per month.² With a median rent of \$2,795 as of October 2023, utilities would represent on average an additional and often hidden 9% monthly cost of tenancy.³⁴ This figure can vary greatly between properties due to size, the efficiency of appliances and building envelope (e.g., insulation).

To provide greater consumer transparency and to incentivize landlords to consider climate-friendly energy efficiency or appliance upgrades to their

¹ "Rent Is Eating up a Dangerous Share of Californians' Pay: This Map Shows How Much." *ABC7 San Francisco*, 9 Feb. 2021, abc7news.com/san-francisco-rent-apartments-for-houses-bay-area/10321910/.

² Avalos, George. "PG&E Customers Face Big Bill Increases Due to State Regulatory Proposals." *MSN, Bay Area News Group*, 13 Sept. 2023, www.msn.com/en-us/money/markets/pg-e-customers-face-big-bill-increases-due-to-state-regulatory-proposals/ar-AA1gG8p8#image=AA1hHkxF1.

³ "Berkeley, CA Rental Market." *Average Rental Price in Berkeley, CA & Market Trends | Zillow Rental Manager*, Zillow, www.zillow.com/rental-manager/market-trends/berkeley-ca/. Accessed 19 Dec. 2023.

⁴ According to the Berkeley Office of Economic Development the average rent for office space in Berkeley was \$3.96, but average utility cost is not immediately available <https://berkeleyca.gov/sites/default/files/documents/Economic-Dashboard-2022.pdf>.

buildings and units, it is in the public interest to require property owners to disclose up to a year's worth of utility data to potential lessees.

BACKGROUND

According to the Energy Equity for Renters Initiative,⁵ multiple states and cities across the country have laws on the books aimed at enhancing transparency around energy costs in connection with potential tenancies:

- Chicago requires property owners or agents to directly provide 12 months of heating utility cost and energy use data to prospective tenants.
- Minneapolis requires medium-sized building property owners to include detailed Energy Cost Reports to be included in the rental application, and provides a publicly accessible dashboard with energy utility cost data for small and large buildings.
- Maine empowers tenants to obtain from utilities data on energy consumption for the past 12 months.⁶
- Colorado requires property owners to share energy benchmarking data with tenants.⁷

These disclosures help tenants manage their budget and can provide a market incentive for property owners with inefficient units to increase efficiency and reduce greenhouse gas emissions to be cost competitive.

The proposed Berkeley ordinance, to be codified under the Consumer Protection subsection of BMC Chapter 13 Public Peace, Morals and Welfare, requires each contract to lease property to include, as an attachment the following elements:

1. Utility records, without personally identifiable information, specifying the amount of electricity and gas consumption and the cost of that consumption for the prior 12-month period for the specific unit, if available, or building average if specific unit data is not available applicable to the contract or lease, to the extent utility service was provided and data is available to the current property owner or owners of record.
2. A statement to be signed by the lessee affirming receipt of the disclosure.

The Pacific Gas and Electric Company (PG&E) currently provides property owners with a tool to export such historic utility data through the account portal in the CSV format. This data would be attached to the lease agreement, and before the lessee enters into a contract or pays a deposit to rent or lease a property, the landlord or designee would

⁵"Energy Equity for Renters Policy Map." *Public.Tableau.Com*, ACEEE, public.tableau.com/app/profile/ac3e/viz/EnergyEquityforRentersPolicyMap/Dashboard1?publish=yes. Accessed 19 Dec. 2023.

⁶ "§6030-C. Residential Energy Efficiency Disclosure Statement." *Title 14, §6030-C: Residential Energy Efficiency Disclosure Statement*, Office of the Revisor of Statutes, State of Maine, www.mainelegislature.org/legis/statutes/14/title14sec6030-C.html. Accessed 19 Dec. 2023.

⁷ "Energy Performance for Buildings." *Energy Performance For Buildings | Colorado General Assembly*, Colorado General Assembly, 8 June 2021, leg.colorado.gov/bills/hb21-1286.

provide the statement to the tenant or lessee as part of the lease, and obtain their signature. Landlords would be required to keep these signed statements on file for a minimum of one year.

ALTERNATIVES CONSIDERED

There are multiple methods to obtain utility data, each with unique benefits and costs.

Instead of acquiring utility data, for example, through exporting PG&E energy use and cost data from their utility account, the City could require property owners to use benchmarking data already reported pursuant to the Berkeley Energy Savings Ordinance. However, benchmarking data is (1) only currently available for buildings of 15,000 square feet and larger, (2) is only available on a per building basis as opposed to per unit, and (3) would likely require significant staff time to develop a methodology and form to assist and instruct property owners with converting benchmarking data to usable per unit cost and usage data.

Alternatively, the City could require landlords to acquire data through a mail-in form similar to Chicago and Maine, but PG&E does not appear to readily provide this service at this time, and it would likely require the City to enforce this process against PG&E with uncertain regulatory and legal outcomes. Councilmember Harrison's office is currently in conversation with PG&E about data access.

FISCAL IMPACTS OF RECOMMENDATION

Limited staff time will be required to create a City webpage documenting the procedures for complying with the ordinance and potential enforcement.

ENVIRONMENTAL SUSTAINABILITY

The Ordinance could incentivize landlords to consider climate-friendly energy efficiency or appliance upgrades to their buildings and units, which would reduce greenhouse gas emissions.

CONTACT PERSON

Councilmember Kate Harrison, (510) 981-7140

Attachments:

1. Draft Ordinance Adding BMC Chapter 13.63

ORDINANCE NO. -N.S.

ADDING CHAPTER 13.63 TO THE BERKELEY MUNICIPAL CODE TO REQUIRE
ENERGY CONSUMPTION AND COST DISCLOSURE ON LEASE OF HOUSING AND
COMMERICAL UNITS

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

Section 1. That Chapter 13.63 of the Berkeley Municipal Code is added to read as follows:

Chapter 13.63

**ENERGY CONSUMPTION AND COST DISCLOSURE ON LEASE OF HOUSING AND
COMMERICAL UNITS**

Sections:

- 13.63.010 Findings.**
- 13.63.020 Definitions.**
- 13.63.030 Energy cost disclosure statement.**
- 13.63.040 Penalties.**
- 13.63.050 Severability.**

13.63.010 Findings.

- A. Residential tenants in the majority of Berkeley ZIP codes pay an alarming and unsustainable percentage of their income on rent and utilities.
- B. The Berkeley Commercial rental market is also highly competitive and expensive.
- C. Accurate data disclosures on historic energy consumption and cost could help tenants manage their budget, and also may provide a market incentive for property owners with inefficient units to increase efficiency and reduce greenhouse gas emissions.
- D. Building tenants that pay energy bills often lack the ability to implement building upgrades that could improve performance, reduce emissions, and reduce those costs.
- E. To provide greater consumer transparency and to incentivize landlords to consider climate-friendly energy efficiency or appliance upgrades to their buildings and units, it is in the public interest to require property owners to disclose up to a year's worth of utility data to potential lessees.

13.63.020 Definitions.

"Tenant or Lessee" means a person that, pursuant to a rental or lease agreement, occupies or holds possession of a building or part of a building or premises.

13.63.030 Energy Cost Disclosure Statement.

- A. Energy cost disclosure. Each contract to lease property shall include, as an attachment, the following elements:
 - (1) Utility records, without personally identifiable information, specifying the amount of electricity and gas consumption and the cost of that consumption for the prior 12-month period for the building or unit associated with the contract to the extent utility service data is available to the current property owner or owners of record;
 - (2) A statement to be signed by the Tenant or Lessee affirming receipt of the information set out in subsection A. (1) of this section.
- B. Provision of statement. Before a Tenant or Lessee enters into a contract or pays a deposit to rent or lease a property, the landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the statement under A. (2) to the Tenant or Lessee, and obtain the Tenant's or Lessee's signature on the statement and sign the statement. The landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall retain the signed statement for a minimum of 1 year.

13.63.040 Penalties.

- A. Any individual, firm, partnership, corporation, company, association, society, group or other person or legal entity that violates, disobeys, omits, neglects, or refuses to comply with the execution of any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished pursuant to Section 13.63.030 of the Berkeley Municipal Code, and shall be deemed guilty of a separate offense for every day such violation, disobedience, omission, neglect or refusal shall continue.
- B. For a second, or subsequent violation, any local business license may be revoked by the licensing agency until the violator complies with this Chapter.

13.63.050 Severability.

If any provision or clause of this Ordinance or any application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Ordinance. To this end the provisions and applications of this Ordinance are severable, and the Council of the City of Berkeley hereby declares that it would have passed this Ordinance and each provision or clause without regard to whether any other portion of this Ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way within fifteen calendar days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.