# LEGISLATION, IRA / AGA & REGISTRATION COMMITTEE MEETING

**Monday, November 9, 2026 – 5:30 p.m.**
**Berkeley Rent Board Conference Room A – 2000 Center Street, Suite 400, Berkeley, CA 94704**

**Public Participation**
This meeting will be conducted in a hybrid model with both in-person and remote participation, and 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.

**To access this meeting by Zoom**
Join from a PC, Mac, iPad, iPhone, or Android device. If you do not want your name to appear on the screen, 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: 857 0028 0259, Passcode: 547414. To comment during the public comment part of the agenda, Press *9 and wait to be recognized by the Committee Chair.

**Email comments**
Email comments must be submitted to mbrown@berkeleyca.gov **by 4:00 p.m.** on the day of the meeting in order to be considered by the Committee and included in the public record. Format your subject line: "PUBLIC COMMENT ITEM FOR LIRA COMMITTEE." Please observe a 150-word limit. Time limits on public comments will apply.

**Decorum**
All rules of procedure and decorum apply for both in-person attendees and those participating remotely. Attendees at public meetings are reminded that other attendees may be sensitive to various scents. Please help the City respect these needs.

**Communications 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.

BERKELEY RENT BOARD

**AGENDA: LEGISLATION, IRA / AGA & REGISTRATION COMMITTEE MEETING**

**Monday, November 9, 2026 – 5:30 p.m.**

**Berkeley Rent Board Conference Room A – 2000 Center Street, Suite 400, Berkeley, CA 94704**

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 in1878 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 October 5, 2026 meeting minutes – see attachment

5. Public Comment

6. Discussion and possible action to recommend full Board amend Regulation 801 to require verification of registration information contained in the Board's online rent registry-see attachment

7. Discussion and possible action to recommend full Board adopt various non-substantive regulation amendments to correct citations to the Ordinance that have been changed and remove references that have become obsolete due to Measures MM, BB, and X. – see attachment

8. Discussion and possible action regarding registration fees for nonprofit affordable housing providers.

9. Discussion and possible action regarding future agenda items

10. Confirm next meeting date

11. Adjournment

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

COMMITTEE: Soli Alpert (Chair), Stefan Elgstrand, Ida Martinac, Nathan Mizell

BERKELEY RENT BOARD

**LEGISLATION, IRA / AGA & REGISTRATION COMMITTEE MEETING**

**Monday, October 5, 2026 – 5:30 p.m.**

**Berkeley Rent Board Conference Room A – 2000 Center Street, Suite 400, Berkeley, CA 94704**

Minutes-Unapproved

1. General Counsel Brown called the roll at 5:34 pm. Commissioners Alpert, Elgstrand, and Mizell present. Commissioner Martinac present at 5:37pm.

2. The Land Acknowledgment Statement was played.

3. The Committee approved the agenda with a 3-0-0-1 vote. Commissioner Martinac was absent.

4. The Committee approved the September 15, 2026 meeting minutes with a 3-0-0-1 vote. Commissioner Martinac was absent.

5. There was no public comment on items not on the agenda.

6. Discussion and possible action to adopt a Regulation mandating paperless billing for certain properties. The Committee discussed proposed Regulation 806 which permits the Executive Director to mandate paperless billing for certain properties by published policy. The Committee voted to recommend the full Board adopt proposed Regulation 806 at the November 19, 2026 Regular Board Meeting. 4-0-0-0.

7. Discussion and possible action to recommend full Board amend Regulations 403.5 and 1269 to address security issues associated with room locks. The Committee discussed staff's proposed amendments to Regulations 403.5 and 1269 regarding security issues with room locks in rooming houses. The Committee voted to recommend the full Board adopt the proposed amendments to Regulation 403.5 and 1269 at the October 15, 2026 Regular Board Meeting. 4-0-0-0.

8. Discussion and possible action to recommend full Board amend Regulations 1206 and 1269 to address time limitation for filing rent increase petitions for added space/services. The Committee discussed staff's proposed amendments to Regulations 1206 and 1269 regarding time limitations for filing rent increase petitions for added space/services. The Committee voted to recommend the full Board adopt the proposed amendments to Regulation 1206 and 1269 at the October 15, 2026 Regular Board Meeting. 4-0-0-0.

9. Discussion and possible action to recommend that full Board approve publication of the 2027 Annual General Adjustment at the October 15, 2026 meeting. The Committee discussed the staff report on the 2027 Annual General Adjustment. The Committee voted to recommend the full Board adopt the 2027 Annual General Adjustment at its October 15, 2026 Regular Board Meeting. 4-0-0-0.

10. Discussion and possible action to recommend that full Board approve the 2027 Annual Inflationary Adjustment of the Owner Move-In and Ellis Act Relocation Assistance payments at the October 15, 2026 meeting. The Committee discussed the staff report on the 2027 Inflationary Adjustments to

the Owner Move-In and Ellis Act Relocation Assistance payments. The Committee voted to recommend the full Board adopt the 2027 Inflationary Adjustments at the October 15, 2026 Regular Board Meeting. 4-0-0-0.

11. The Committee agreed to discuss a possible amendment to Regulation 801 regarding verification of registration information on the online rent registry, registration fees for nonprofit affordable housing providers, and potential non-substantive regulation amendments due to Measure X.

12. The Committee confirmed its next meeting for November 9, 2026 at 5:30 pm.

13. The Committee voted to adjourn at 6:07 pm. 4-0-0-0.

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

COMMITTEE: Soli Alpert (Chair), Stefan Elgstrand, Ida Martinac, Nathan Mizell

BERKELEY RENT BOARD

# Memorandum

**DATE:** November 9, 2026

**TO:** Honorable Members of the LIRA Committee

**FROM:** Matt Brown, General Counsel

**SUBJECT:** Recommendation to adopt substantive amendments to Regulation 801 [Proper Filing of the Rent Registration Statement] to clarify the obligation of a landlord to affirmatively confirm the Board's information regarding rental units owned or managed by the landlord

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## Recommendation

That the Committee recommend the full Board adopt substantive amendments to Regulation 801 [Proper Filing of the Rent Registration Statement] to clarify the obligation of a landlord to affirmatively confirm that the Board's information regarding rental units owned or managed by the landlord is correct.

## Background

The Board has been undertaking an initiative to modernize its operations, including the collection, updating, and publishing of property and tenancy information necessary to administer the Ordinance. Correct registration of a rental unit is vital to the Board's operation. Section 8 of the Ordinance requires landlords to register units they own or manage by: registering new or newly covered units, reporting new tenancy rents and housing services, and reporting changes in ownership or management. However, while the Ordinance makes clear that landlords are not in compliance with the registration requirements until all required registration information is provided to the Board, the Ordinance only imposes monetary penalties for failure to timely pay registration fees.

The Board receives registration information from many sources, including but not limited to: registration statements completed by landlords through the online registry; paper registration forms submitted by landlords and entered into the online registry by staff; publicly available information, such as County Assessor records in the event of a property sale which a landlord does not report to the Board; and tenant submission of leases in the event that a landlord fails to report a new tenancy. As a result, many rental unit profiles in the online registry contain information which has never been

affirmatively verified by the current owner of the property. Unless the Board independently becomes aware that the information in the portal is incorrect, the Board considers the landlord in compliance with registration requirements as long as the landlord timely pays the registration fees.

Measure X, substantive amendments to the Ordinance on the November 3, 2026 General Election Ballot, creates Berkeley Municipal Code section 13.76.080.N, which allows the Board to require electronic billing and payment. At its October 5 meeting, the Committee reviewed and approved proposed Regulation 806, which permits the Executive Director to set a policy that mandates the Board will send only an electronic bill to landlords who own or manage 5 or more properties. The Executive Director indicated that the agency did not intend to exercise the ability to require only electronic payment at this time. The Executive Director's intent in commencing paperless billing to a subset of owners is to facilitate the transition of registration actions to the online rent registry to the extent feasible.

The amendments to Regulation 801 compliment the purpose of proposed Regulation 806. The amendments clarify that, under the Board's authority to create registration forms in Berkeley Municipal Code sections 13.76.080.B and F, registration forms may include electronic forms or submission of required registration information. The amendments further clarify that the Executive Director may require a landlord to affirmatively confirm the information the Board has on record for a rental unit that the landlord owns or management. This confirmation is consistent with the requirements of Berkeley Municipal Code section 13.76.080.C, which requires landlords to declare under penalty of perjury that registration information is correct, especially to the extent that the Board's database may contain incorrect tenancy or property information connected to a specific rental unit. This change will help ensure that the Board's data is updated, so the public is able to rely on its accuracy.

The proposed amendment is attached. Additions are in red text.

## Contact Person

Matt Brown, General Counsel: 510-981-4930

801. Proper Filing of the Rent Registration Statement

(A) A rental unit is properly registered in accordance with Section 8 of the Rent Stabilization Ordinance if the landlord or landlord's representative has:

(1) Filed with the Board completed registration statements, on forms provided by the Board, including all of the information required for the individual units and the information concerning all the covered units in the same property and an affidavit that the landlord has provided the notice required under Berkeley Municipal Code section 13.76.080.D;

(2) Paid to the City of Berkeley all required registration fees and penalties due for the unit and all the covered units in the same property; and

(3) Fully completed registration for all covered units on the same property parcel.

(B) A landlord who asserts that he or she is unable to supply required information may request review of his or her registration status by the Rent Stabilization Board Executive Director or the Executive Director's designee. The Executive Director or designee shall determine whether good cause exists to find the landlord properly registered notwithstanding the lack of required information. The request for review shall be made on a form approved by the Executive Director and shall include, without limitation, a declaration under penalty of perjury fully describing the landlord's efforts to obtain the missing information. The Executive Director may specify the nature and extent of the efforts, and documentation thereof which is required. The landlord shall serve a copy of the request for review on all current tenants in the property and known prior tenants who resided in the premises during the time period for which the information is missing. A proof of service by mail on said tenants shall accompany the request for review. The tenants may submit in writing to the landlord any relevant information concerning the request for review within ten (10) days of the date of service of the request upon them. A copy of this information submitted to the landlord shall be filed with the Board. It shall be accompanied by a proof of service by mail upon the landlord. The Executive Director or designee shall determine whether or not the inability to provide the required information resulted from circumstances beyond the control of the landlord. If it is determined that the landlord was not at fault and that the missing information cannot now be produced nor reasonably reconstructed from any available information, the landlord may be found to be properly registered notwithstanding the lack of information. If the reason for the unavailability was within the control of the landlord, no relief shall be granted unless the landlord demonstrates that he or she has otherwise substantively complied with the Ordinance and that the landlord has made all

reasonable efforts to obtain or reconstruct the information which is unavailable. A copy of the determination shall be mailed to the landlord and to the tenants of the affected property. The Board may establish an appropriate fee for the filing of a request for review of registration status. No rent withholding petition for non-registration shall be acted upon while a request for review is pending.

(C) In designating a rental unit as properly registered, the Board's intent is to facilitate the rent registration and individual adjustment of rent ceiling processes and the dissemination of information regarding the registration of rental units. Such designation shall not be construed as the Board's certification of the lawful base rent, current lawful rent ceiling or any other information provided on the rent registration statement. Nothing in this Regulation shall preclude the Board nor any person from challenging the accuracy of any information provided in any registration statement or declaration in the context of any proceeding or action.

(D) As used in this Regulation, "rent registration statement" shall include the initial registration statement, any required annual registration statement, any vacancy registration form required under Regulation 1013(K) and any supplemental registration statement approved and required by the Board. For units covered by B.M.C.13.76.050.B~~.1 and B.M.C. 13.76.050.C.8~~, "rent registration statement" shall include the "Registration Statement for Partially Covered Units", all required "Tenancy Registration Forms For Partially Covered Units" and any other supplemental or additional registration forms the Board requires. For all rental units, "rent registration statement" shall include electronic or online versions of any form or registration statement required by this regulation. This subsection is intended to clarify the existing requirements concerning filing of initial, annual, vacancy and supplemental registration statements.

(E) When the Board determines that it is reasonably necessary to carry out the purposes of the Ordinance, the Board may require landlords to furnish information missing from any initial or annual registration statement or to complete a supplement registration statement approved by the Board. This may include information which was requested on the 1980-81 registration statement but which was not required by this regulation, or specifically enumerated in the Ordinance at the time the registration statement was filed but which the Board finds it necessary for proper administration of the Ordinance. Any such request for information request for completion of a supplemental registration statement shall be responded to within a reasonable time period to be determined by the Board. If the landlord is unable to supply the information requested, the landlord shall comply with subsection (B). Any request for review pursuant to subsection (B) shall be made within the time specified by the

Executive Director. If the landlord does not respond to the request or request review of his or her registration status within the specified time, the landlord may subsequently be held to be unregistered thereafter notwithstanding the fact that the landlord would have otherwise been deemed to have been properly registered under the law and regulations existing at the time the statement which omitted the requested information was originally filed. Any such determination of non-registration shall be prospective only.

(F) Nothing in the subsection (E), above, shall be construed to relieve any landlord of the duty to fully register all his or her covered units and to supply all requested information merely because the Board has not advised the landlord of any information which may been omitted by the landlord from the initial, annual or any supplemental registration statements.

(G) *Notice at Commencement of Tenancy (Berkeley Municipal Code section 13.76.080.D)*

(1) The obligation of the landlord to timely provide the Notice at Commencement of Tenancy shall be subject to the provisions of subsection (~~H~~I) of this regulation.

(2) In the property which is subject to the requirement to post the Notice at Commencement of Tenancy which contains both Fully Covered and Partially Covered units, a landlord may comply with the requirement to post by posting copies of the Notice at Commencement of Tenancy applicable to both Fully Covered and Partially Covered units.

(H) To ensure the Board's online rent registry contains accurate and current information regarding rental units subject to the Ordinance, the Executive Director may require that any landlord confirm the accuracy of all information otherwise required by a rent registration statement contained in the online rent registry for all rental units owned or managed by the landlord. The Executive Director may further require that a landlord complete any such confirmation by accessing the online rent registry and electronically submitting a statement under penalty of perjury that the information contained in the online rent registry for rental units owned or managed by the landlord. Failure to confirm information on the Board's rent registry shall be deemed a failure to comply with subsection (I) herein if the information in the Board's online rent registry is incorrect or no longer current.

801. Proper Filing of the Rent Registration Statement - Page 4

(~~H~~I) A landlord shall be found in substantial compliance with registration requirements of the Ordinance and Regulation when:

(1) The landlord has made a good faith effort to comply with the Ordinance and regulations concerning registration sufficient to reasonably carry out the intent and purpose of the Ordinance and Regulations; and

(2) The landlord has cured any defect in compliance in a timely manner after receiving notice of a deficiency from the Board.

[Regulation 801 revised in its entirety effective April 13, 1983; Subsection 801(G) adopted March 3, 1986; amended November 21, 1986; Subsections 801 (A), (B), (E) and (F) amended effective June 6, 1997; Subsection (D) amended December 27, 1998; Subsection (D) amended January 20, 2022 to make clear that landlords must file certain registration statements for partially covered units; Subsections (A)(1) and (D) amended and Subsection G renamed H to add in new Subsection (G)(1)(2) on January 16, 2025 incorporating Rent Ordinance amendments from Measure BB effective December 20, 2024]

BERKELEY RENT BOARD

# Memorandum

**DATE:** November 9, 2026

**TO:** Honorable Members of the LIRA Committee

**FROM:** Matt Brown, General Counsel

**SUBJECT:** Non-substantive amendments to various regulations to reflect the renumbering of sections of the Ordinance and to remove other obsolete references based on Measure MM, Measure BB, and Measure X

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## Recommendation

That the Committee recommend the full Board adopt non-substantive amendments to various regulations in reflect the renumbering of sections of the Ordinance based on Measure MM, Measure BB, and Measure X.

## Background

Measure BB and Measure X both added new sections to the Ordinance and deleted existing sections. As a result, some citations to the Ordinance contained in the Board's regulations have become obsolete. Additionally, other references in the regulations, such as to the July 1 registration deadline and to obsolete exemptions, require non-substantive updates. Staff has reviewed and recommends updates to the following Regulations to reflect updated citations and to remove obsolete references: 503, 506, 508, 520, 523, 808, 880, 881, 883, 1005, 1006, 1300, 1301, 1311, 1380, 1381, 1382, and 1383.

The updated amendments are attached. Additions are in red text, deletions are in strikethrough.

## Contact Person

Matt Brown, General Counsel: 510-981-4930

503. Definition of Principal Residence

(A) Background and Purpose. Like many of the exemptions listed in Berkeley Municipal Code Section 13.76.050, the exemptions identified in Berkeley Municipal Code Sections 1~~3.76.050F~~ 13.76.050.C.4, 13.76.050.C.6, and 1~~3.76.050G~~. 13.76.050.C.9 ~~(Sections 5(f) and 5(g) of the Ordinance)~~ are transitory. A landlord may not claim an exemption pursuant to ~~Sections 5(f) or 5(g)~~ these sections of the Ordinance unless the landlord occupies a unit on the property as his/her principal residence at the time the landlord asserts or claims the exemption.

(B) "Person" limited to "natural person." Only a natural person may claim principal residence in a unit when claiming an exemption under ~~Sections 5(f) or 5(g) of the Ordinance~~ Berkeley Municipal Code Sections 13.76.050.C.4, 13.76.050.C.6, and 13.76.050.C9. For purposes of this Regulation, "person" shall mean only a "natural person." A successor in interest is not entitled to the exemptions in ~~either Sections 5(f) or 5(g) of the Ordinance~~ Berkeley Municipal Code Sections 13.76.050.C.4, 13.76.050.C.6, and 13.76.050.C9 merely because a previous landlord claimed entitlement to one of these exemptions. A bank, corporation, or other business entity may never claim a unit as exempt under ~~Sections 5(f) or 5(g) of the Ordinance~~ Berkeley Municipal Code Sections 13.76.050.C.4, 13.76.050.C.6, and 13.76.050.C9 as such entities are not natural persons. A natural person who has granted the subject property into a revocable living trust may claim principal residence only as follows:

(1) The person claiming principal residence is both the grantor and the trustee of the revocable living trust, or

(2) The grantor has named another natural person as trustee but has retained oversight over the amount of rent charged at the property and any decision to evict any tenant from the property.

(3) A natural person who is the sole surviving beneficiary of a revocable living trust for which all grantor(s)/trustee(s) are deceased may claim principal residence.

(4) All applicable criteria set forth in Subsections C and D shall apply equally to natural persons claiming principal residence pursuant to a revocable living trust as if they were owners of record. The Board may require appropriate documentation, including but not limited to an affidavit signed under penalty of perjury and/or a Certification of Trust for the purpose of establishing exemption.

(C) Principal residence, as used in ~~Sections 5(f) and 5(g)~~ Berkeley Municipal

Code Sections 13.76.050.C.4, 13.76.050.C.6, and 13.76.050.C9 of the Ordinance, is that dwelling place where the person actually resides a majority of the time. For the purpose of this Ordinance, a person may have only one principal residence.

(D) In the determination as to the principal residence status of the dwelling place, the following factors shall be considered:

(1) whether the person carries on basic living activities at the dwelling place;

(2) whether the person maintains another dwelling and, if so, the amount of time that the person spends at each dwelling place;

(3) whether the person has filed for and obtained a homeowner's exemption for the dwelling place;

(4) whether the person is a registered voter at the dwelling place;

(5) other relevant factors.

[Effective Date: 11/26/80; renumbered 04/09/99; added new Sections A and B, and enumerated sub-section identifiers of new Section D (previously A through D) 06/17/13; amended Section B to make clear that properties held in certain types of revocable living trusts will qualify for exemption when applicable criteria is met; sunset provision identified in Section E – 9/19/19; 10/21/21: Eliminated Section E.]

506. Changes in Status of Transient Unit

If a unit becomes subject to the provisions of the Ordinance by virtue of Regulation 505, it shall be registered within 60 days as set forth in Section 8(~~I~~J) of the Ordinance. If thereafter the unit becomes vacant and is rented to a transient, it shall be exempt for the period of time of such transient occupancy.

During such period of exemption, the provisions of the Ordinance relating to limitations on rents and eviction controls shall not apply. When the unit is again occupied by a nontransient, the rent must revert to the level which would have been lawful under the Ordinance had the unit continuously been occupied by a nontransient. A unit which is subject to the Ordinance need only be registered once each year regardless of the number of times its status changes.

[Effective Date: 10/27/82; renumbered 04/09/99.]

508. Exemption for Certain Single Family Residences

(A) Effective July 1, 1999, the following single-family residences shall be exempt from the terms of ~~Berkeley Municipal Code Section 13.76.080 [Rent Registration];~~ Section 13.76.100 [Establishment of Base Rent Ceiling and Posting]; Section 13.76.110 [Annual General Adjustment of Rent Ceilings] and Section 13.76.120 [Individual Adjustment of Rent Ceilings - except as it relates to the recovery of security deposits]:

(1) A single-family residence that first became subject to the Rent Ordinance on or after January 1, 1996.

(2) As of January 1, 1999, a single family residence for which a new tenancy began on or after January 1, 1996 except where:

(a) The preceding tenancy was terminated by the landlord by notice pursuant to Section 1946 of the Civil Code or was terminated upon the change in terms of tenancy noticed pursuant to Section 827 of the Civil Code;

(b) The landlord has otherwise agreed by contract with the City of Berkeley or any other public entity to limit or otherwise restrict rent levels in consideration for a direct financial contribution or any other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of title 7 of the Government Code; or

(c) The dwelling unit contains serious health, safety, fire or building code violations, excluding those caused by disasters, for which a citation has been issued by the appropriate governmental agency, and which citation has remained unabated for six months or longer preceding the vacancy.

(B) For purposes of this Regulation, a single family residence is defined as a unit that is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b), (d) or (f) section 11004.5 of the Business and Professions Code but does not include a condominium dwelling or unit that has not been sold separately by the subdivider to a bona fide purchaser for value as provided in Civil Code section 1954.52(a)(3)(B)(ii).

(C) Except as provided in this regulation, single-family residences remain subject to the terms of the Rent Ordinance, including Berkeley Municipal Code Section 13.76.070 [Security Deposits]; Berkeley Municipal Code Section 13.76.080 [Rent Registration]; and Section 13.76.130 [Good Cause Required for Eviction].

[Effective Date: 4/23/99; revised Section (B) added lines after.. Professions Code..

2/4/02]

## 520. Exemption for Fraternities and Sororities

**(A) Background and Purpose.** The Rent Board has long exempted rental units in properties owned by fraternities and sororities (or companies that manage units occupied by active members of these organizations). Tenants who live in these units that are not active members of fraternities and sororities, however, are not exempt from any section of the Rent Ordinance. The Board recognizes that many of these rental units are occupied seasonally (typically during the summer months) by non-members and has charged the landlord a partial Registration Fee required by B.M.C. 13.76.080. This regulation clarifies this exemption and identifies the tenants that are covered by the Rent Ordinance.

**(B) Exemption under B.M.C. ~~13.76.050M~~ 13.76.050.C.5.** Rental units – as defined by Regulations 403 and 403.5 – occupied as a primary residence by a member of a fraternity or sorority in which the fraternity or sorority owns the rental unit (or a unit owned by an entity whose sole purpose is the maintenance and operation of the fraternity or sorority's rental units) are exempt from Berkeley Municipal Code Chapter 13.76.

**(C) Rental units not subject to exemption under B.M.C. ~~13.76.050M~~13.76.050.C.5 .** Rental units located within a property as defined by subparagraph (B) that are occupied by a tenant who is not an active member of a fraternity or sorority are subject to all sections of Berkeley Municipal Code Chapter 13.76 including Section 13.76.080, Rent Registration.

Tenants who occupy rental units for only part of the year in properties primarily occupied by fraternities and sororities shall be considered "authorized seasonal rentals" as further defined in Regulation 808. Tenants who occupy authorized seasonal rentals shall have the same rights and responsibilities as a tenant who occupies any another rent-controlled unit not subject to an exemption identified in B.M.C. 13.76.050. The Board shall charge a reduced registration fee, however, for these authorized seasonal rentals as defined by Regulation 808.

[Adopted April 24, 2017.]

523. When Exemption Must Be Claimed or Verified

(A) Where the claimed exemption is based upon the grounds set forth in ~~subsections C., E., F. and G. of Section 5 of the Rent Ordinance [B.M.C. §§13.76.050]~~ Berkeley Municipal Code sections 13.76.050.C.2, 13.76.050.C.3, 13.76.050.C.4, and 13.76.050.C.9, the exemption need not be claimed or verified each year. However, if the facts that gave rise to the exemption cease to exist, the landlord shall register the unit in accordance with ~~Section 8.i. of the Ordinance~~ Berkeley Municipal Code section 13.76.080.J within 60 days after the unit becomes subject to the Ordinance.

(B) Where the claimed exemption is based upo~~n subsections B. or D. of Section 5 of the Rent Ordinance [B.M.C. §§13.76.050]~~ Berkeley Municipal Code section 13.76.050.C.1, the exemption must be claimed and verified on an annual basis.

~~(C) Where the claimed exemption is based upon subsection I of Section 5 of the Rent Ordinance [B.M.C. §§13.76.050]., the exempt status of the unit need only be claimed and verified once.~~

~~(D) Where the claimed exemption is based upon Regulation 508, the Board will determine the exemption before July 1 of each year, by referring to the Vacancy Registrations filed with the Board, and will notify the landlord and the tenant. Either party can object to the determination by following the procedure set forth in Regulations 521 or 522.~~

(~~E~~C) Nothing in this Chapter shall prevent the Executive Director or his or her designee from investigating and reviewing the status of any unit claimed to be exempt or previously found to be exempt if there is reason to believe that the claimed exemption is not supported by the facts or has been obtained as a result of falsely supplied information.

[Effective Date: 05/23/84; amended & renumbered 04/09/99.]

## 808. Registration Fee for Authorized Seasonal Rentals in Fraternities and Sororities

**(A) Definition**. As defined by Regulation 520, an "authorized seasonal rental" is a rental unit occupied by a tenant who is not an active member of a fraternity or sorority in a property owned and operated by the fraternity or sorority (or a unit owned by an entity whose sole purpose is the maintenance and operation of the fraternity or sorority's rental units) for only part of the year. The vast majority of authorized seasonal rentals occur during the summer months when the University of California Berkeley has its summer session. As defined in this regulation, "authorized seasonal rentals" shall have no relation to "short-term seasonal rentals" as defined in Regulation 1014.

**(B) Reduced Registration Fee for Authorized Seasonal Rentals.** The Board charges landlords an annual registration fee pursuant to B.M.C. ~~13.76.080D~~ 13.76.080.G. set in accordance with B.M.C. 13.76.060.N. Rental units operated as authorized seasonal rentals shall be charged a reduced Registration Fee set by the Board when it passes its annual registration fee for all units. The Board shall publicize the fee and identify all properties subject to the reduced fee for authorized seasonal rentals. The fee shall be paid no later than ~~July 1~~ September 30 of each year and shall be subject to all penalties (proportionally reduced based on the total amount of the fee) as defined in B.M.C. 13.76.080, et seq.

[Adopted April 24, 2017.]

880. Registration Fee Due Date

Pursuant to ~~Sections 6(n) and 8(d) of the Rent Stabilization Ordinance~~ Berkeley Municipal Code sections 13.76.060.N and 13.76.080.G, the Board establishes an annual per unit registration fee to cover the Board's reasonable expenses. The fee shall be paid no later than ~~July 1~~ September 30 of each year. The fee is considered paid on the date it is received in the Board office, or the bona-fide post-mark date, whichever is earlier.

[Effective Date: 10/02/80; amended 06/06/97, 05/07/99, 05/08/03 eliminating actual fee amount]

881. Delinquent Registration Fees and Penalties

~~(A)~~If the full fee is not paid by ~~July 1, of any year after 1991~~, September 30, it is delinquent, and a penalty equal to one hundred percent of the fee so delinquent shall become due in addition to the fee. Every six months that the fee remains delinquent, the penalty shall be increased by one hundred percent of the original fee. Landlords whose fee payments are delinquent will be notified by Board staff as soon as possible of this fact and the amount, including the penalty, which they owe. Although partial payments will be accepted, rental units will not be considered to be properly registered until the full fee, including any penalty, has been paid for them.

~~(B) The fee is not delinquent if the required amount has been paid on or before September 2, 1980, even if the registration statement is not properly completed until after that date, as long as the unit for which the fee was paid is identified as the property address at the time of payment, or staff determines there is good cause for lack of that information~~.

[Regulation 881 effective October 2, 1980; amended June 6, 1997]

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~~G) 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 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 shall be waived only while the legal opinion is pending. If the landlord raised the issue requiring legal determination, penalties shall be waived only from the date of the first written contact with the Board in which the issue was raised.

Waiver of penalties 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 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~~ September 30 is made, without deliberate delay, by ~~September 30th~~ December 31 of the same year (within 90 days of the ~~July 1st~~ September 30 due date), and all other balances due are paid within that time. In such case, the Executive Director 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 shall, except as provided in subsection (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 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 shall be evaluated pursuant to Regulation 884(B).

(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.

(M) The payment schedules in subsections (H) through (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.

[Regulation 883 amended by the addition of (G) effective 1/12/83; amended by deleting "and interest" and by the addition of (H), effective 6/6/97and as amended 3/20/98; amended August 21, 2000 by adding the last sentence to H; amended 6/24/03 with addition of (I) and other various changes; amended July 20, 2009 change in (H) first sentence added *without deliberate delay,* by *August 30* instead of September 30 and fee is due within *60 days* instead of 90; amended December 13, 2010, by revising (H) to add *and all other balances due are paid within the 60 days* and define landlord for the purposes of this regulation, adding (J) and references to it in (H) and (I), and making various other changes; amended November 21, 2011 by deleting reference to automatic waivers for late payment of fees for a previously non-exempt unit; amended May 18, 2023 by adding "[a]dditionally, 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)" to the first paragraph, by changing the first sentence in (H) from August 30th to September 30th and from 60 days to 90 days, by deleting (J) and adding the language "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", by adding (K), (L), (M), and (N), and by changing "will" to "shall" throughout the regulation.]

1005. Determination of Permissible Rent Level Where a Prior Certification Has Been Issued

(A) Extent of Review. Where the rental unit has previously been certified, either by means of an Individual Rent Adjustment (IRA) decision, or a Certificate of Permissible Rent Level and an initial rent has not been established following a post-December 31, 1998 vacancy since the previous certification, the review to determine the current permissible rent level shall include the following:

(1) The review shall begin with the most recent certified rent, which shall be controlling and not subject to challenge in an appeal of the Certificate.

(2) The most recent certified rent shall be increased by the amount of subsequent Annual General Adjustments for each year in which the property was in substantial compliance with the registration requirements if the Board has no information establishing that the landlord was otherwise ineligible for the Annual General Adjustments in question. In situations where the property was not in substantial compliance with the registration requirements or where the Board has information establishing that the landlord was otherwise ineligible for any Annual General Adjustment, the adjustment for the year(s) in question shall be disallowed when computing the permissible rent level. For purposes of this regulation, a property shall be considered in substantial compliance with the registration requirements if all registration fees and penalties have been paid and the initial registration statement states the name and address of the landlord and managing agent and the information is timely provided upon request of the Board.

(3) Any Individual Rent Adjustment(s) which has been granted shall be taken into account when computing the permissible rent level. All determinations made in such IRA hearings, or in any rent withholding for nonregistration-hearings, shall be controlling and the results reached in said proceedings shall not be altered or superseded.

(4) If the current tenancy began between January 1, 1996 and December 31, 1998, the permissible rent level shall include any adjustments lawful under Regulation 1013(B) that are reflected on vacancy registration forms filed with the Board.

(B) Notification Concerning Determination.

In addition to the Certificate of Permissible Rent Level, the Board shall provide the landlord and tenant with a notice containing the following information:

(1) Notice of the prior certification and that the prior certification is

binding and cannot be challenged in an appeal of the Certificate;

(2) The specific dollar amount of the permissible rent level for each year from the date of the most recent certified rent to the present;

(3) Notice that the landlord's eligibility for the annual general adjustments subsequent to the most recent Certified rent is subject to appeal by either party, and that the Board has made no attempt to determine the landlord's eligibility for the various annual general adjustments, except insofar as eligibility depends upon registration of the property. The notice shall set forth the various eligibility conditions for the Annual General Adjustments ~~and also state that if such ineligibility continues for an entire calendar year, the landlord permanently loses the annual general adjustment pursuant to Section 13.76.110(H) of the Ordinance~~; and

(4) Notice that unless a timely Appeal of Certificate of Permissible Rent Level is filed, the rent level identified in the Certificate shall become the final permissible rent level (maximum lawful rent ceiling), subject to re-determination only pursuant to Regulation 1009. The time period and procedure for filing such an appeal shall be clearly set forth.

[As Amended March 3, 1986; March 11, 1988; December 27, 1998; and April 7, 2000]

1006. Determination of Permissible Rent Level Where No Prior Certification Has Been Issued or an Initial Rent Has Been Established Since the Last Certification

(A) Extent of Review. Where the rental unit has not previously been certified or, on or after January 1, 1999, an initial rent has been established since the last certification, the Executive Director, or his or her designee, shall review the rent registration forms, other information contained in the property files, the Hearings Unit files and any other information available to the Board for the purposes of determining the permissible rent level (maximum lawful rent ceiling) for the rental unit. The review shall include the following:

(1) The rent in effect on December 30, 1979 shall be determined from the registration forms and other information available to the Board.

(2) The December 30, 1979 rent shall be compared with the rent reported to be in effect on May 31, 1980 to insure that the May 31, 1980 rent does not exceed that charged on December 30, 1979 by more than the maximum 5% increase permitted under Ordinance No. 5212-N.S. If the May 31, 1980 exceeds the 5% increase permitted under Ordinance No. 5212-N.S., the apparent base rent for purposes of this regulation shall be deemed to be the December 30, 1979 rent plus 5%. For all other units, except units for which an initial rent was established after January 1, 1999, the apparent base rent ceiling for purposes of this regulation shall be deemed to be the May 31, 1980 rent. For units that had an initial rent established on or after January 1, 1999, the base rent ceiling shall be the initial rent as reported on the most recent vacancy registration form filed with the Board.

(3) In circumstances where the initial registration statement or vacancy registration form is not substantially completed, the landlord shall be notified that the property is not properly registered and that the Board is unable to determine the permissible rent level without the missing information. ~~An initial registration statement shall be considered substantially completed when it contains all the information required by Section 13.76.080 with the exception of subsections (3), (9), (10) and (11).~~ The landlord shall be required to furnish the missing information, including evidence of the rent which was actually charged on the date(s) specified. Said evidence shall consist of a lease or rental agreement in effect on the date in question, a copy of a rent receipt, books of account or other documents clearly establishing the rent in effect on the date in question. If the landlord is unable to furnish satisfactory evidence, the landlord shall complete a declaration form substantially equivalent to that which is required under Regulation 801(B), which sets forth the rent the landlord reasonably believes to have been in effect on the date(s) in question and includes the basis for the landlord's belief that the rent in effect was the amount claimed by the landlord. A landlord who supplies the requested information, and who otherwise was in substantial compliance with the registration requirements, shall not be held to be unregistered for

purposes of this regulation in determining eligibility for the various annual general adjustments.

(4) The base rent ceiling as determined above shall be increased by the amount of subsequent Annual General Adjustments for each year in which the property was in substantial compliance with the registration requirements if the Board has no information establishing that the landlord was otherwise ineligible for the Annual General Adjustments in question. In situations where the property was not in substantial compliance with the registration requirements or where the Board has information establishing that the landlord was otherwise ineligible for any Annual General Adjustments, the adjustment for the year(s) in question shall be disallowed when computing permissible rent level. For purposes of this regulation, "substantial compliance" shall be determined by Regulation 801(G).

(5) If the property first came under coverage by virtue of the provisions of the Tenant 's Right Amendment Act of 1982 (Measure G) the permissible rent level shall be determined as set forth above, except that the starting point for all calculations shall be the rent in effect on December 31, 1981.

(6) Any Individual Rent Adjustment(s) which has been granted shall be taken into account when computing the permissible rent level. All determinations made in such IRA hearings, or in any rent withholding for non-registration hearings, shall be controlling and the results reached in said proceeding shall not be altered or superseded.

(7) If the current tenancy began between January 1, 1996 and December 31, 1998, the permissible rent level shall include any adjustments lawful under Regulation 1013(B) that are reflected on vacancy registration forms filed with the Board.

(B) Notification Concerning Determination.
In addition to the Certificate of Permissible Rent Level, the Board shall provide the landlord and tenant with a notice containing the following information:

(1) The specific dollar amount of the permissible rent level for each year from 1980 to and including the current permissible rent level;

(2) Notice that the Board has not made any attempt to inquire into whether or not the landlord has substantively complied with the provisions of Measure I and Ordinance No. 5212-N.S. Such notification shall clearly set forth the provisions of Measure I and Ordinance No. 5212-N.S. which affect the lawful base rent ceiling pursuant to Berkeley Municipal Code Section 13.76.100. It shall further specifically set forth the computational steps necessary to determine the lawful base rent ceiling and

rent ceilings. The notice shall further advise that if the landlord or tenant wishes to contest the base rent ceiling or the lawful rent ceilings, a timely appeal must be filed;

(3) The notice shall also state that the Board has made no attempt to determine the landlord's eligibility for the various general adjustments or for establishing an initial rent under Regulation 1013, except insofar as such eligibility depends upon registration of the property. The notice shall set forth the various eligibility conditions for the Annual General Adjustments~~; and also state that if such ineligibility continues for an entire calendar year, the landlord permanently loses the annual general adjustment in question pursuant to Section 13.76.112.(H) of the Ordinance.~~

(4) Notice that unless a timely Appeal of Certificate of Permissibly Rent Level is filed, the rent level identified in the Certificate shall become final permissible rent level (maximum lawful rent ceiling), subject to redetermination only pursuant to Regulation 1009. The time period and procedure for filing such an Appeal shall clearly set forth; and

(5) Notice that if the unit is vacant, or becomes vacant during the appeal period, that the landlord must so notify the Board.

[Effective Date: March 11, 1988; amended December 27, 1998]

1300. Obligation to Offer Vacated Unit to Tenants

(A) When the landlord seeks in good faith to recover possession of a rental unit for his or her own use and occupancy as his or her principal residence, or for the use and occupancy as the principal residence of the landlord's child or parent, pursuant ~~to Ordinance 13.a(9)~~ Berkeley Municipal Code section 13.76.130.A(8) and the person for whose use recovery of the unit is sought already occupies a unit on the same property parcel and said unit will become vacant as a result of the landlord's recovery of possession; the landlord shall accord the tenant(s) who will be displaced by said recovery of possession the right of first refusal to occupy the unit to be vacated by the landlord or the landlord's relative.

(B) Said offer shall be upon substantially the same terms and conditions as the existing rental agreement between the landlord and the tenant(s) and at a rent not in excess of the current lawful rent ceiling for the unit vacated by the landlord or the landlord's relative pursuant to the provisions of the Ordinance and the regulations of the Board.

(C) If the number of persons who may, under applicable state law or local ordinance, lawfully occupy the unit vacated by the landlord or landlord's relative is less than the number of persons currently occupying the unit for which recovery of possession is sought, the landlord may condition the offer of the vacated unit upon the tenant's agreement to reduce the number of occupants to the maximum lawful level. In such circumstances, the determination as to which tenants shall occupy the vacated unit and which shall find other housing shall be made by the tenants themselves. In the event that no agreement can be reached among the tenants, the landlord shall have no obligation to offer the vacated unit to any of the tenants.

[Effective Date: August 24, 1983. Revised 9/6/01 to remove the wording “1301-1309 (Reserved)” from the bottom of the page.]

1301. Determination of the Initial Rent for a Non-Comparable Replacement Unit Required to be Offered to Displaced Tenant Pursuant to Berkeley Municipal Code Section 13.76. 130.A.~~9~~8(e).

(A) Purpose: A landlord seeking to recover possession of a rental unit pursuant to Berkeley Municipal Code section 13.76.130.A.~~9~~8, for use and occupancy by the landlord or the landlord's spouse, child or parent, must offer the tenant occupying that unit ("the occupied unit") any other dwelling unit owned by the landlord in the City of Berkeley that is available for occupancy as a replacement rental unit. The offer must be made when the landlord first becomes aware of the availability of the unit. Unless it has been cited as unsafe for human habitation by a governmental agency, a dwelling unit is available for occupancy as a replacement unit if it is not the subject of a rental agreement at the time the tenant is served with notice terminating the tenant's tenancy or at any time thereafter until the earlier of the tenant's surrender of possession of the premises or entry of a final judgment awarding possession of the premises to the landlord. The initial rent for the replacement unit shall be based on the current rent of the occupied unit with an adjustment based on differences in the replacement unit's condition, size, services, location, and other amenities.

(B) Procedure: Parties may agree on an initial rent for the replacement unit. If they do not agree, either party may file a petition requesting that the Rent Board determine the initial rent for the replacement unit. The petition shall be on a form approved by the Rent Board and shall be accompanied by (1) a completed Unit Comparison form on which the petitioner shall provide all requested information regarding the condition, size, services location and other amenities of both the occupied unit and the replacement unit and (2) any supporting evidence. The petition must be accompanied by proof that it has been served on the opposing party.

Upon receipt of the petition, the Rent Board shall send a blank Unit Comparison form to the opposing party who shall complete the form and file it with the Rent Board, along with any supporting evidence, within 10 days of the date it was mailed, which shall be clearly stated on an accompanying proof of service. A hearing shall be held on the petition in accordance with Regulation 1221 no later than 15 days from the date that the respondent's completed Unit Comparison form was filed with the Rent Board. The parties may present or may be required by the hearing examiner to provide evidence concerning the value differential of the condition, size, services, location, and other amenities of the two units. The proceedings under this regulation shall be conducted according to all provisions of Chapter 12, Subchapter B, not in conflict with a provision of this regulation.

(C) Standards: The initial rent for the replacement unit shall be the same rental rate per square foot as the rental rate of the occupied unit, with appropriate adjustments based

on the fair and reasonable value of the differences, if any, in condition, size, services, location, and other amenities of the two units.

(D) Decision: Within 10 days following the close of the record, the hearing examiner shall issue a written decision containing findings of fact that specify and ascribe a value for each of the differences between the two units and determine the initial rent for the replacement unit. Notice of the hearing examiner's decision shall be mailed to all parties. The notice shall also state that any party aggrieved by the decision may appeal the decision to the full Rent Board by filing an appeal within 10 days of the date the decision was mailed. The last date for filing an appeal shall be clearly stated on the notice. Any appeal shall be given precedence over other pending appeals and shall be heard and decided as expeditiously as possible.

[Effective Date: September 6, 2001; amended subsection (A) on June 20, 2005 to change the term "*rental* unit" to "*dwelling* unit " add the second sentence and add from Unless to agency, to the third sentence.]

1311. Alleging Compliance in Complaint

(A) In any action to recover possession of a rental unit covered by the Ordinance, except an action to recover possession under ~~subsections 13(a)(7) and 13(a)(8)~~Berkeley Municipal Code sections 13.76.130.A.6 and 13.76.130.A.7, a landlord shall allege in the complaint for possession substantial compliance with the implied warranty of habitability and compliance with Section 10 (Rent Ceiling) of the Ordinance for the rental unit which is the subject of the action to recover possession, and a landlord shall allege in the complaint for possession compliance with Section 8 (Rent Registration) of the Ordinance for all rental units in the property which contains the rental unit which is the subject of the action to recover possession.

(B) For purposes of this regulation, a landlord shall not be in compliance with Section 8 (Rent Registration) of the Ordinance until they have filed all registration statements as articulated in Regulation 801 including all Vacancy Registration Forms for fully controlled units and Registration Statements and Tenant Registration Forms for Partially Covered Units for all current tenancies.

(C) A landlord's failure to comply with the requirements of this regulation shall be a defense to any action for possession of a rental unit covered by the Ordinance.

[Effective Date: May 13, 1981; Amended 1-20-22 to clarify that a landlord's failure to file registration statements shall be a defense to any action for possession]

1380. Evictions for Occupancy by Landlord or Relative

(A) The landlord shall specifically identify in writing in the notice of termination and in the complaint for unlawful detainer the name(s) and relationship(s) to the landlord of all individual(s) for whom the landlord seeks to recover possession of the property for occupancy as a principal residence. Failure to comply with this requirement shall constitute a defense to the eviction action and shall render the notice of termination legally invalid.

(B) Inclusion of the name(s) and relationship(s) of the person(s) for whom the landlord seeks to recover possession in the notice of termination and the complaint for possession shall be one element to be considered in the determination of whether or not the good faith requirement of Section 13(a)(~~9~~8) has been met.

(C) If the individual(s), named in the notice of termination, for whom possession was recovered under Section 13(a)(~~9~~8) occupies the rental unit as his/her/their principal place of residence for a period of less than thirty-six (36) consecutive months following the date that the tenant vacated the unit, there shall be a rebuttable presumption that the eviction was not in good faith.

(D) The requirement that the landlord offer any non-comparable unit owned by the landlord to the tenant if a non-comparable unit becomes available before the recovery of possession of the tenant's unit is an essential element of an eviction for occupancy by the landlord or landlord's relative. A landlord's failure to offer an available non-comparable unit or a landlord's deliberately causing an otherwise available unit to be unfit for human habitation shall each constitute a defense to the eviction action. (This subparagraph is a clarification of existing law and does not constitute a change in the law.)

[Original policy adopted November 20, 1980, amended by rule adopted November 26, 1980, amended September 23, 1998 and October 22, 1999.]

[Reference: See also Ordinance Section 15(b) regarding good/bad faith of landlord.] Amended September 8, 2005 [changing Subsection (C) twenty four (24) to thirty six (36) consecutive months and adding Subsection (D)].

1381. Evictions for Occupancy by Landlord, Lessor, or Relative: Definition of Principal Residence

Regulation 503 shall apply to define principal residence for purposes of Ordinance Sections 13(a)(~~9~~8) and 13(a)(~~10~~9).

[Effective Date: November 26, 1980] [Corrected 4/02: clerical error only changing "Regulation 550" to "503"]

1382. Ownership Interests in Property

~~A.~~ A married couple who together hold at least a recorded 50% ownership interest in a property, as community property or otherwise, satisfies the ownership requirement of ~~Sections 13.76.050.H and 13.76.130.A9 of the Rent Ordinance~~ Berkeley Municipal Code sections 13.76.050.C.4. 13.76.050.C.9, and 13.76.130.A.8.

B. An unmarried couple in a registered domestic partnership, who together hold at least a 50% recorded interest in a property, satisfies the ownership requirement of ~~Sections 13.76.050.H and 13.76.130.A9 of the Rent Ordinance~~ Berkeley Municipal Code sections 13.76.050.C.4. 13.76.050.C.9, and 13.76.130.A.8.

C. Other than as set forth in Paragraphs (A) and (B), ownership interests in property may not be combined to satisfy the 50% ownership requirement of ~~Sections 13.76.050.H and 13.76.130.A9 of the Rent Ordinance~~ Berkeley Municipal Code sections 13.76.050.C.4. 13.76.050.C.9, and 13.76.130.A.8.

[Effective date: December 14, 2000]

**1383. Owner Move-In and Ellis Act Relocation Assistance Disputes. (B.M.C. 13.76.130.A.~~9~~8 and 13.77.055)**

**A) Scope and Purpose**

Berkeley Municipal Code subsections 13.76.130.A.~~9~~8(p)(iii) (Owner Move-In evictions) and 13.77.055.D.2 (Ellis Act evictions) provide that in the event of a dispute over a tenant's eligibility for relocation assistance, either party may file a Rent Board petition requesting a determination of eligibility or file a claim in a court of competent jurisdiction. This Regulation sets forth the procedures and grounds for a Rent Board petition to determine a tenant's eligibility for relocation assistance and/or seeking release of disputed funds.

In the event that both a Rent Board petition and a claim in a court of competent jurisdiction (lawsuit) are filed regarding the same disputed funds, the Rent Board will proceed only on petitions served *before* service of the lawsuit for release of funds. Petitions served *after* the service of any lawsuit for release of funds will be dismissed without prejudice. In the event that the date of service of the lawsuit is unclear or unavailable to the hearing examiner, the filing dates for the respective proceedings may be used in lieu of the dates of service. An unlawful detainer action shall not stay the Rent Board petition, because state law prohibits the plaintiff in that type of action from recovering disputed relocation funds without filing a separate lawsuit.

Except as provided herein, proceedings on petitions filed under this section shall be taken according to all provisions of Chapter 12, Subchapter B.

**(B) Standard Relocation Assistance Disputes.**

As provided in subsections 13.76.130.A.~~9~~8(p)(i) and 13.77.055.D.2, a landlord alleging that the tenant is not eligible for the standard relocation assistance must notify the Rent Board in writing that he/she disputes the tenant's eligibility before the funds are released to the tenant. The sole ground for dispute of release of standard relocation assistance is the duration of the tenancy. A tenant who has not resided in the unit for at least one year as of the expiration date of the Notice Terminating Tenancy is not eligible for the standard relocation assistance.

**(C) Additional Relocation Assistance Disputes**

As provided in subsections 13.76.130.A.~~9~~8(p)(ii) and 13.77.055.D, a tenant who is eligible for additional relocation assistance must notify the landlord and the Rent Board in writing that he/she is claiming low-income, disabled, elderly, tenant with minor child status, or a claim that the tenancy began prior to January 1, 1999 within 30 days of receipt of the notice of termination of tenancy. A landlord may dispute a tenant's eligibility for additional relocation assistance. In the event that the landlord disputes the tenant's eligibility or fails to deposit additional relocation funds after notice of a tenant's

eligibility, either party may file a petition seeking that the Rent Board determine the tenant's eligibility and/or release the funds.

The grounds for claiming eligibility for additional relocation assistance and for filing a tenant petition for release of disputed additional relocation assistance funds are as follows:

**(1)** The tenant's household income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, or as otherwise defined in Health and Safety Code Section 50079.5;

**(2)** The tenant is disabled, meaning that he or she has a physical or mental impairment than limits one or more of his or her major life activities within the meaning of the California Fair Housing and Employment Act (Government Code Section 12926);

**(3)** The tenant will be sixty years of age or older at the time of the expiration of the notice of termination of tenancy;

**(4)** The tenant household includes a minor child under the age of 18 years of age at the time of the expiration of the notice of termination of tenancy; or

**(5)** The tenancy began prior to January 1, 1999;

A landlord may file a petition for release of disputed additional relocation assistance funds by alleging that the applicable tenant eligibility claim, as stated above, is false.

**(D) Petitions; Notice.**

Where a landlord disputes the eligibility of a tenant for relocation assistance either party may petition for release of the funds from escrow. Petitions filed under this section shall be expedited so that a hearing on the petition is held within 30 days of filing and a decision rendered within 30 days of the hearing. The parties shall be given at least 15 days' notice of the hearing.

**(E) Evidence in support of petition.**

Evidence that a tenant is or is not eligible for additional relocation assistance includes, but is not limited to, documentation of the following:

**(1)** Receipt of means-tested government benefits such as CalFresh, Medi-Cal, Supplemental Security Income; documentation of actual income, such as W-2 forms, appropriately redacted tax returns, and/or Social Security payments;
**(2)** Correspondence from a medical provider, documentation of receipt of disability-related benefits such as Supplemental Security Income, Social Security Disability

Insurance, and/or department of motor vehicles records;

**(3)** Birth certificates, passports, and/or Department of Motor Vehicles records;

**(4)** School registration paperwork, medical records, caregiver's affidavits, and/or guardianship paperwork;

**(5)** The original lease agreement and any relevant addenda; correspondence between the parties and/or previous landlords; and/or other circumstantial evidence showing when a tenancy began.

[Adopted April 24, 2017]