



TOWN OF FAIRFAX

STAFF REPORT

September 7, 2022

TO: Mayor and Town Council

FROM: Heather Abrams, Town Manager
David Woltering, Interim Planning and Building Services Director

SUBJECT: Rent Stabilization and Just Cause Eviction Forum

RECOMMENDATION

Based on discussion at this forum, staff is requesting Town Council direction on the following:

Rent Stabilization

Which approach to administration of the Rent Stabilization Program does the Town Council support:

- Town Staff (In-house)
 - City of Berkeley (Outsource)
 - Hybrid (Combination of Town Staff and City of Berkeley)
- (Legal Aid of Marin to provide support services with all three approaches)

Just Cause Eviction

Which approach does the Council prefer to addressing Just Cause Eviction:

1. Amend the current section of the Town Code to conform to some or all the Marin County Chapter of the Democratic Socialists of America (DSA) proposal. Just cause is in one section of the Code and Rent Mediation (Control/Stabilization) is in another section of the Code.
2. Repeal both sections of the existing Code and replace with one combined section that would contain the entire DSA proposal (which combines just cause and rent stabilization).
3. Leave the existing sections as they are and consider modifications to the two sections at some point in the future after further study.

BACKGROUND

The Town of Fairfax is in the process of updating the Housing Element of its General Plan as are other communities in Marin County and throughout California. Approximately 1/3 of households in Marin County are renters. The Town of Fairfax Town Council acknowledges the significant challenges facing renters in terms of housing insecurity in this community and wants to strengthen and/or put in place policies and programs that provide greater protections and securities for individuals renting housing in the Fairfax community. Consequently, the Fairfax Town Council has been considering measures to provide greater protections in its Just Cause Evictions Ordinance and the option to put in place a Rent Stabilization Program.

DISCUSSION

Just Cause Eviction

Proposed additions and changes to strengthen Fairfax's Just Cause Evictions Ordinance were reviewed at the Town Council's July 6, 2022, meeting. The topics included the following, based on information presented by DSA:

1. Right to Return
2. Additional Eviction Protections for Elderly, Disabled, or Terminally Ill Tenants
3. Additional School Year Eviction Protections for Educators and Students
4. Ellis Act Withdrawal Protections
5. Relocation Payments
6. Relocation Payments for Temporary Displacement
7. Breach of Lease Qualifications
8. Failure to Pay Rent Qualifications
9. Substantial Rehabilitation for Health and Safety
10. Buy-out Agreements
11. Stages of Eviction
12. Applicability

The Town Council received comments from the public on these topics, discussed them in detail, and asked the Town Attorney to further research several of the topics. There are two attachments to this report that provide more information regarding the subject of Just Cause Evictions, titled as follows: “Existing Fairfax Tenant Protection Regulations” (**Attachment A**) and “State Law Governing Local Tenant Protections” (**Attachment B**). Staff is anticipating returning to the Town Council at its meeting of September 21, 2022, with an update and possible ordinance to address these topics in relation to the Town’s existing Just Cause Evictions Ordinance.

Rent Stabilization

Staff expects to return to the Town Council at its meeting of September 21, 2022, with a draft ordinance for consideration to establish regulations and requirement for a Rent Stabilization Program in Fairfax. This program would include the following:

- Public outreach and information
- Registering landlords
- Developing and maintaining a data base
- Establishing base rents and rent ceilings
- Annual rent adjustments based on an index
- Petition processes to address violations or requested adjustments
- Mediation services
- Hearing officer proceedings
- Appeal processes

Members of Council, community members, housing agency staff and advocacy groups, and Town staff have conducted considerable research regarding this subject. The team working on this matter has met with a broad range of individuals including, staff members and representatives of the County of Marin Community Development Agency, the City of Berkeley, Legal Aid of Marin (LAM), and DSA. Based on meetings with these individuals and related research, staff anticipates that there are approximately 720 housing units in the Town of Fairfax that could be subject to the Rent Stabilization Program. The objective would be to work with the respective landlords to register each of the units and to inform the landlords and tenants of the rights and protections, including rent stabilization, available through the program. Staff has received proposals from LAM and the City of Berkeley for support services, including the offer to provide training of Fairfax staff from the City of Berkeley as part of the hybrid approach. Staff has attached flowcharts that depict a Fairfax staff option (in-house) (**Attachment E**) and a City of Berkeley option (outsource) (**Attachment F**), with LAM providing support services in both cases. Attached is letter, dated August 5, 2022, to Fairfax Town Councilmembers from the Executive Director of LAM, Laura McMahon, that describes the services

LAM would provide. For those services, LAM would not request funding for 18 months. Thereafter, LAM representatives have indicated to staff the estimated annual charge to the Town for those services would be approximately \$40,000. The City of Berkeley charges for full outsourcing are estimated to be approximately \$46,000 for staffing and up to \$30,000 for data system support. This assumes the processing of 4-6 hearing officer petitions annually and 2-4 appeals annually. Alternatively, a hybrid approach would involve the Town of Fairfax working with Marin IT or an alternate contractor to develop its systems capability for the program and hire Town staff to work with the registration process. This option would develop internal staff and technology ability, but the needed staffing and technology costs are unknown at this time. While this hybrid option would result in a significant reduction in City of Berkeley data system support and costs, additional staffing and technology costs would be incurred by the Town.

FISCAL IMPACT

It is anticipated that a preferred approach for administration of this program would be determined – Town Staff, City of Berkeley, or Hybrid, and that more specific costing would be developed. Additionally, there will be a Landlord Registration requirement and fee as part of the program. It is not clear if the Landlord Registration fee will cover the full costs of the program, particularly in the first year.

ATTACHMENTS

- A. Town Attorney Provided Existing Fairfax Tenant Protection Regulations
- B. Town Attorney Provided State Law Governing Local Tenant Protections
- C. DSA Provided Comparison of Just Cause Eviction Protections (not referenced in the text above, added as informational)
- D. August 5, 2022, Letter from Legal Aid of Marin (not referenced in the text above , added as informational)
- E. Flowchart – Town Staff
- F. Flowchart – City of Berkeley
- G. Sample Registration Forms and Letters from the City of Berkeley (not referenced in the text above, added as informational)

ATTACHMENT A

I. Existing Fairfax Tenant Protection Regulations

A. Just Cause Eviction Protections

Chapter 5.54 of the FTC prevents landlords from evicting tenants from covered properties without just cause (hereinafter, the “Just Cause Ordinance”). Covered properties are those which contain: (1) dwelling units with a separate bathroom, kitchen, and living area in a multifamily or multipurpose dwelling; (2) dwelling units in a single room occupancy residential structures; or (3) units in a structure being used for residential uses whether or not the uses is a conforming use.¹

The Just Cause Ordinance does not apply to: (1) a dwelling unit owned or operated by a government agency; (2) a dwelling unit where rent is directly subsidized by a government agency such that the tenant’s portion of the rent does not exceed 30% of household income (i.e., government-subsidized affordable housing); (3) a dwelling unit in a development where 49% or more of the units are subject to legally binding restrictions that limit rent to an “affordable rent”, as defined by Health & Safety Code § 50053; (4) a dwelling unit occupied by the landlord’s property manager; (5) junior accessory dwelling units; or (6) a room(s) in a single-family home where the landlord also lives.²

To terminate a tenancy in a covered property, a landlord must possess a valid business license, if applicable; show timely, good faith substantial compliance with noticing requirements; must not accept rent for occupancy beyond the termination date of the tenancy; and show that the termination is for cause.³ “For cause” terminations are of two types. The first is where a tenant is evicted because he or she engaged in prohibited conduct—what is referred to in the ordinance as “for cause terminations”.⁴ The second is where the tenant does not do anything wrong, but the landlord is legally entitled to evict the tenant—what is referred to in the code as “no-fault terminations”.⁵

1. For Cause Evictions

“For cause” grounds to evict are as follows:

1. Failure to pay rent after receiving a three-day notice from the landlord;
2. Violating a material term of the rental agreement;
3. Conviction for using the unit for illegal purpose. Non-offending tenants in the household, however, can remain if they remove the offending tenant;
4. Making a threat of immediate bodily harm or death to any person on the property or the landlord;

¹ FTC § 5.54.020(A).

² FTC § 5.54.020(B).

³ FTC § 5.54.040(A).

⁴ FTC § 5.54.040(B).

⁵ FTC § 5.54.040(C).

5. Creating a nuisance and failing to cease or cure the nuisance after a reasonable time given upon written notice; or
6. Damaging property, trespassing, or committing waste to the unit or premises.⁶

Notwithstanding the “for cause” grounds for eviction, a landlord may not cite to acts of domestic violence, sexual assault, or stalking against a tenant or tenant’s household member as a substantial basis to terminate the victim’s tenancy.⁷

2. No Fault Evictions

“No fault” grounds for eviction are as follows:

1. The landlord is permanently removing the dwelling unit from the residential rental market in accordance with the Ellis Act (discussed further below);⁸
2. The landlord or his or her close relatives intend to move into and live in the unit as his or her primary residence;⁹
3. The landlord has obtained permits to substantially rehabilitate the unit to comply with applicable Health & Safety Code provisions and repairs cannot be done while the unit is occupied;¹⁰

Tenancies may also be terminated pursuant to a voluntary buy-out agreement between tenant and landlord.¹¹

3. Noticing Requirements

Notice of terminations must contain information prescribed in FTC § 5.54.050(A), including one applicable cause for termination. If the rental agreement was negotiated in a language other than English, the notice must be in that language. The notice must be delivered per Civil Code sections 1946 and 1946.1¹² and a copy provided to the Town within 10 days of delivery to the tenant.¹³ For terminations based on a landlord’s intent to permanently remove the

⁶ FTC § 5.54.040(B)(1)-(6).

⁷ FTC § 5.54.040(B) & (B)(7).

⁸ FTC § 5.54.040(C)(1). Paragraph (1) also provides that a landlord may evict a tenant if he or she “will imminently demolish the dwelling unit” which is stated in the context of the landlord’s plan to permanently remove the unit from the rental market. Therefore, demolition should be interpreted as evidence of the landlord’s intent to permanently remove the unit from the rental market, and not as a distinct “no-fault” ground for eviction.

⁹ FTC § 5.54.040(C)(2). To qualify, the unit must be occupied within three months of the tenant household vacating and must be occupied as a primary residence for one year or more.

¹⁰ FTC § 5.54.040(C)(3).

¹¹ FTC § 5.54.040(D).

¹² FTC § 5.54.050 (B).

¹³ FTC § 5.54.055. If termination is for breach of the lease, a copy of the lease must be attached to the notice to the Town.

unit from the rental market, the tenant must receive the notice at least 120 days before the last date of occupancy.¹⁴

B. Fairfax’s Mandatory Mediation for Rental Increases Ordinance

Fairfax’s existing rent stabilization ordinance (“RSO”) allows tenants and landlords to adjust rent through Town-provided mediation services. If a tenant receives one or more notice of rent increase that exceeds 5% for any 12-month period, the tenant may request mediation to modify the rent.¹⁵ The request must be made within 10 days of receipt of the notice of rent increase.¹⁶ Similarly, landlords may request mediation services to increase rent above 5% for any 12-month period.¹⁷ The RSO does not explicitly set a 5% annual rental increase ceiling.

The Town Manager has designated the Marin County District Attorney’s office to provide mediation services. Mediation must proceed according to prescribed time limits, noticing requirements, and mediation process set forth in the RSO.¹⁸ The process may not last longer than 30 days from when the parties were notified of the mediation unless they agree to an extension.¹⁹ The mediation process ends when the parties enter into an enforceable mediation agreement, the mediator determines no further progress is likely, or the parties decide the mediation has concluded to their satisfaction.²⁰ Absent a binding mediation agreement, the mediator must issue a nonbinding mediation statement.²¹

Noticed new rents may not go into effect while mediation is pending. If a tenant fails to participate in good faith, the mediation request will be considered withdrawn. If the landlord fails to participate in good faith, the rent increase request will be denied.

¹⁴ FTC § 5.54.060.

¹⁵ FTC § 5.55.040(A).

¹⁶ FTC § 5.55.040(A).

¹⁷ FTC § 5.55.040(B).

¹⁸ See FTC § 5.55.050.

¹⁹ FTC § 5.55.050(C)(2).

²⁰ FTC § 5.55.050(C)(2).

²¹ FTC § 5.55.050(F).

ATTACHMENT B

I. State Law Governing Local Tenant Protections

The Ellis Act (Gov. Code §§ 7060 *et seq.*), the Tenant Protection Act of 2019 (Civ. Code § 1946.2) (“TPA”), and the Costa-Hawkins Rental Housing Act of 1995 (Civil Code §§ 1954.50 *et seq.*) (“Costa-Hawkins”) are the primary state laws that govern local authority to regulate residential rents and evictions.

A. The Ellis Act

The Ellis Act predates the TPA and preempts local ordinances that deprive landlords of the right to “go out of business”.¹ It affords landlords the “absolute right to exit the residential rental business” and prohibits local government interference with this right.² Specifically, the law provides that no public entity can force “the owner of any residential property to offer, or continue to offer, accommodations in the property for rent or lease.”³ The Act does, however, allow localities to impose certain requirements and controls with respect to withdrawn units.⁴ For instance, the Act expressly allows public entities, by ordinance, to require landlords to first offer displaced tenants the right to re-rent a unit if the unit is offered for rent within 10 years of withdrawal, provided the tenant requested the offer in writing within certain time limits.⁵ In addition, if a landlord offers to re-rent a rent-controlled property within 5 years of withdrawal, the units must be rented at the lawful rent at the time of withdrawal plus the annual adjustments available under local rent control laws.⁶

The courts have also allowed public entities to impose conditions on a landlord’s right to exit the rental market so long as they are not “an inevitable and undue burden ... on a landlord’s exercise of its right”.⁷ Under this principle, courts have upheld ordinances requiring “reasonable” relocation assistance to displaced tenants if the payments do not make it “prohibitively expensive” to leave the market.”⁸ General hardship to landlords exiting the market is not enough.

B. AB 1482: Tenant Protection Act of 2019

The TPA can be divided into two types of tenant protections applicable to all rental housing in the state, unless exempt: (1) just cause eviction protections and (2) restrictions on

¹ Gov. Code § 7060.7.

² *San Francisco Apartment Assn. v. City & Cty. of San Francisco*, 3 Cal. App. 5th 463, 477 (2016).

³ Gov. Code § 7060(a).

⁴ *See* Gov. Code § 7060.1(c) (“nothing in [the Ellis Act] .. [d]iminishes or enhances any power in any public entity to mitigate any adverse impact on persons displaced by reason of the withdrawal from rent or lease of any accommodations.”); *see also* Gov. Code § 7060.7(c) (the Ellis Act “is not otherwise intended to override procedural protections designed to prevent abuse of the right to evict tenants.”).

⁵ Gov. Code § 7060.2(c).

⁶ Gov. Code. § 7060.2(a).

⁷ *San Francisco Apartment Assn.*, 3 Cal. App. 5th at 482.

⁸ *Pieri v. City and Cnty. of San Francisco*, Cal.App.4th 886, 892 & n. 6 (2006); *Kalaydjian v. City of Los Angeles*, 149 Cal.App.3d 690, 692 (1983) (ordinance requiring \$2500 relocation assistance to “disadvantaged tenants” and \$1000 to all others in rent controlled units); *People v. H & H Properties*, 154 Cal.App.3d 894, 897 (1984) (ordinance requiring \$500 in moving expenses plus \$1000 or monthly rent multiplied by number of years of tenancy for displaced tenants of rent controlled units).

annual rent increases. The TPA went into effect January 1, 2020 (*i.e.* after adoption of the Town’s Just Cause Ordinance) and will sunset January 1, 2030.

The TPA does not preempt local rent control rules. Local rent control regulations are still permissible if they are consistent with Costa-Hawkins and have more restrictive annual increases than the TPA.⁹ Local “just cause” eviction ordinances and tenant relocation assistance regulations, are still permissible if they predate September 1, 2019 *or* are “more protective” than the TPA.¹⁰ An ordinance is “more protective” if it satisfies all of the following:

- (i) The just cause for termination of a residential tenancy under the local ordinance is consistent with [the TPA just cause provisions].
- (ii) The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, or provides additional tenant protections that are not prohibited by any other provision of law.
- (iii) The local government has made a binding finding within their local ordinance that the ordinance is more protective than the provisions of this section.¹¹

A residential unit cannot be subject to both a local just cause ordinance and the TPA’s just cause provisions.¹² Therefore, in order for the Town’s Just Cause Ordinance to still control after amendment, the amendments must make the Just Cause Ordinance “more protective” than the TPA. We turn next to the TPA’s just cause provisions.

1. Just Cause Provisions

Under the TPA, landlords cannot evict or refuse to renew a tenancy of a tenant that has occupied a residential property for 12 continuous months unless the landlord has “just cause”.¹³ “Just cause” is defined to include certain reasons for termination that are the fault of the tenant (“at fault” just cause) and certain limited reasons that are not the tenant’s fault (“no fault” just cause).

a. At-Fault Just Cause

The “at fault” reasons for which a landlord may terminate a tenancy include (i) failure to pay rent; (ii) breach of the lease terms; (iii) maintaining a nuisance or waste on the rental property in violation of state or local laws; (iv) refusal by the tenant, at expiration of the current lease, to sign a new lease on the same or substantially similar terms; (v) conducting criminal activity on the property; (vi) assigning or subletting the property in violation of the lease; (vii)

⁹ See Civ. Code § 1947.12(d)(3).

¹⁰ Civ. Code § 1946.2(g)(1)(B).

¹¹ Civ. Code § 1946.2(g)(1)(B)(i)-(iii)

¹² Civ. Code § 1946.2(g)(2).

¹³ Civ. Code § 1946.2(a).

refusing to let the landlord conduct inspections of the property as permitted by state law; or (viii) using the property for any other unlawful purpose.¹⁴

b. No-Fault Just Cause

The “no fault” reasons for termination include: (i) the landlord intends to occupy the unit themselves, or provide the unit for a spouse, domestic partner, children, grandchildren, parents or grandparents; (ii) the landlord is withdrawing the property from the rental market; (iii) a court or government agency has required that the property be vacated; or (iv) the landlord intends to demolish or “substantially remodel” the property.¹⁵ If a landlord terminates a tenant’s lease based on one of these “no fault” reasons, the landlord must either provide the tenant with relocation assistance equal to one month’s rent, or waive the tenant’s last month of rent.¹⁶

c. Exempt Properties

The following types of properties are exempt from the “just cause” provisions of the TPA: (i) transient/hotel properties; (ii) housing accommodations in a nonprofit hospital, religious facility, residential care facility for the elderly or adult care facility; (iii) school dormitories (elementary, secondary, and college); (iv) properties where the owner lives and the tenant shares bathroom or kitchen facilities with the owner (e.g., renting a room in the owner’s home, renting a junior accessory dwelling unit (JADU) that shares bathroom facilities)¹⁷; (v) housing that received a certificate of occupancy in the last 15 years; (vi) affordable housing that is restricted by any agreement with the Town or any other government agency, or is subject to an agreement that provides housing subsidies for very low, low or moderate income households; or (vii) any property that can be sold separately from any other dwelling unit (i.e., a single family dwelling or condominium), unless it is owned by a real estate investment trust, a corporation or a limited liability company in which at least one member is a corporation.¹⁸ The landlord must provide the tenant notice if the unit is exempt from the just cause restrictions based on this last provision.

2. Rent Control Provisions

The TPA also contains rent control provisions. Unless the unit is exempt, the TPA prohibits landlords from increasing the rent for a unit by more than 5% plus the percentage change in the cost of living over the previous 12-month period, or 10%, whichever is lower.¹⁹ The landlord may increase a tenant’s rent twice during a 12-month period provided the rent is not increased beyond the TPA’s maximum rent limit. However, the TPA explicitly states that these

¹⁴ Civ. Code § 1946.2(b)(1).

¹⁵ Civ. Code § 1946.2(b)(2). “Substantially remodel” means a replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials in accordance with law that cannot be done safely unless the tenant vacates the property for at least 30 days. *Id.* § 1946.2(b)(2)(D)(ii). It does not include cosmetic improvements alone. *Id.*

¹⁶ Civ. Code § 1946.2(d)(1).

¹⁷ It appears this exemption does not apply to ADUs, which the FTC defines as “an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons...” FTC § 17.048.010(C). However, it would apply to a JADU that “shares sanitation facilities with [a] ... single-family structure.” *Id.*

¹⁸ Civ. Code § 1946.2(e).

¹⁹ Civ. Code § 1947.12.

provisions do not preempt local restrictions on rental rate increases provided the restrictions are consistent with Costa Hawkins.

C. Costa Hawkins

Costa Hawkins limits local agencies' authority to impose maximum rents on certain residential property. Specifically, it exempts the following from local rent control:

- Units issued certificates of occupancy after February 1, 1995;²⁰
- Units that were exempt from a rent control ordinance on or before February 1, 1995 pursuant to an exemption for newly constructed units;²¹ or
- Units that are separately alienable from the title of any other dwelling (*e.g.*, single-family homes and condominiums) or are subdivided interests in a subdivision (which include certain ownership structures that are used on a limited basis in California, such as community apartment projects and stock cooperatives), unless an exception applies;²²

Costa Hawkins also prohibits ordinances that prevent owners from setting the initial rent of a newly vacated unit (what is called “vacancy decontrol”), with limited exceptions.²³ A public entity may, however, establish rents for a property “where the owner has otherwise agreed by contract with [the] public entity in consideration for a direct financial contribution or any other forms of assistance specified in [the State Density Bonus Law].”²⁴

Costa Hawkins has no effect on local just cause eviction ordinances,²⁵ and thus the Town need only consider it when reviewing proposed amendments to its RSO.

²⁰ Civ. Code §1954.52(a)(1).

²¹ Civ. Code §1954.52(a)(2).

²² Civ. Code §1954.52(a)(3).

²³ Civ. Code §1954.53(a)

²⁴ Civ. Code §§ 1954.52(b) & 1954.53(a)(2).

²⁵ See Civ. Code §§ 1954.52(c) & 1954.53(e) (“Nothing in this section shall be construed to affect the authority of a public entity that may otherwise exist to regulate or monitor the basis for eviction.”)

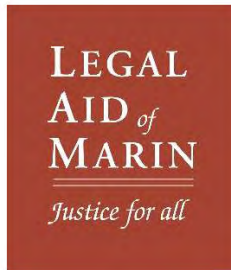
ATTACHMENT C

DSA Comparing Just Cause Eviction Protections: Fairfax

	Existing Fairfax Town Code (CHAPTER 5.54)	AB-1482 Tenant Protection Act of 2019	Proposed Additions & Changes to Fairfax Town Code	<u>Fairfax Town Code Section</u>	<u>AB-1482 Code Section</u>	<u>DSA Model Ordinance Section</u>	<u>7/12 DSA Summary Item</u>
Provision Right of Return	No right of return for no-fault terminations	No right of return for no-fault terminations	Right of return at previous rent for no-fault terminations	N/A	N/A	5.57.030(D)	1
Protections for Seniors	No protection for seniors (62+) against no-fault owner move-in terminations	No protection for seniors (62+) against no-fault owner move-in terminations	Protection for seniors (62+) against no-fault owner move-in terminations	N/A		5.57.030(B)(6)(g)	2
Protections for the Disabled	No protection for those with disabilities against no-fault owner move-in terminations	No protection for those with disabilities against no-fault owner move-in terminations	Protection for those with disabilities against no-fault owner move-in terminations	N/A	N/A	5.57.030(B)(6)(g)	2
Protections for the Terminally-Ill	No protection for terminally-ill tenants against no-fault owner move-in terminations	No protection for terminally-ill tenants against no-fault owner move-in terminations	Protection for terminally-ill tenants against no-fault owner move-in terminations	N/A	N/A	5.57.030(B)(6)(g)	2
Protections for Educators & Students	No protection for educators & students against no-fault owner move-in terminations	No protection for educators & students against no-fault owner move-in terminations	Protection for educators & students against no-fault owner move-in terminations during the school year	N/A	N/A	5.57.030(E)	3
Ellis Act Withdrawal Protections	120 days notice for Ellis Act evictions (permanent withdrawal from housing market)	30-60 days notice for Ellis Act evictions (permanent withdrawal from housing market)	120 days notice for Ellis Act evictions (permanent withdrawal from housing market); one-year notice for seniors (62+) and disabled tenants	5.54.060	Legislative Council's Digest	5.57.060(K)	4
Relocation Payments	No relocation payments for no-fault terminations	Relocation payments worth one month's rent for no-fault terminations	Relocation payments commensurate with costs of local relocation (at least approximately three month's rent) for no-fault terminations; additional payments for seniors (62+), children (0-17), disabled, and terminally-ill tenants; payment amounts increase annually according to CPI	N/A	N/A	5.57.050	5
Relocation Payments for Temporary Displacement	No short-term relocation payments for temporary displacement required to make major repairs	No short-term relocation payments for temporary displacement required to make major repairs	Short-term relocation payments for temporary displacement required to make major repairs, commensurate with local costs for lodging, food, laundry, and pet care; payment amounts increase annually according to CPI	N/A	N/A	5.57.050(D)	6
Breach of Lease	Code includes no qualifications to at-fault breach of lease provisions: "Breach of rental contract. Tenant violated a material term of the rental agreement as provided in Cal. Code of Civil Procedure § 1161(3)."	Code asserts there must be a written notice, but otherwise includes no qualifications to at-fault breach of lease provisions: "A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation."	Includes the following qualifications to at-fault breach of lease provisions: 1. A tenant must receive written notice to cease their violation of the terms of the lease prior to their termination; 2. A tenant may not be evicted for refusing to sign a new lease; 3. The violated terms of the lease must be reasonable, legal, and accepted in writing by the tenant; 4. If the violated terms are part of a new lease, the landlord must have first notified the tenant in writing that they need not accept the terms	5.54.040(B)(2)	1946.2(b)(1)(B)	5.57.030(B)(2)	7

	Code includes no qualifications to at-fault failure to pay rent provisions: <i>"Failure to pay rent. Tenant failed to pay rent within three days of receiving written notice from the landlord demanding payment as provided in Cal. Code of Civil Procedure § 1161(2)."</i>	Code includes no qualifications to at-fault failure to pay rent provisions: <i>"Default in the payment of rent."</i>	Includes the following qualifications to at-fault failure to pay rent provisions: 1. A tenant may not be evicted if a landlord refuses to accept rent paid on behalf of the tenant by a third party; 2. Acceptance of rental payments made on behalf of the tenant by a third party shall not create a tenancy between the landlord and the third party as long as either the landlord or the tenant provide written notice that no new tenancy is intended	5.54.040(B)(1)	1946.2(b)(1)(A)	5.57.030(B)(1)	8
Failure to Pay Rent	No-fault terminations due to substantial rehabilitation for health and safety does not specify that such terminations are temporary.	No-fault terminations due to intent to demolish or to substantially remodel the residential real property does not specify that such terminations are temporary.	Explicitly defines no-fault terminations due to substantial rehabilitation as, by definition, temporary	5.54.040(C)(3)	1946.2(b)(2)(D)	5.57.030(B)(5)	9
Substantial Rehabilitation for Health and Safety	Code includes no qualifications regarding buy-out agreements: <i>"Buy-out agreements. Nothing in this chapter shall expand or limit a landlord and tenant's ability to negotiate or agree to end a tenancy voluntarily in exchange for money or other consideration."</i>	Code includes no qualifications regarding buy-out agreements	Includes the following qualifications regarding buy-out agreements: 1. All buyout agreements must be in writing; 2. Prior to making a buyout offer, the landlord must provide each tenant in that rental unit a written disclosure that includes: a. A statement that the tenant has a right not to enter into a buyout agreement; b. A statement that the tenant may choose to consult with an attorney before entering into a buyout agreement; c. A space for each tenant to sign and write the date the landlord provided the tenant with the disclosure	5.54.040(D)	N/A	N/A	10
Buy-Out Agreements	Code fails to define or elaborate the stages and/or processes involved in termination when stating that terminations without cause are prohibited. <i>"Prerequisites to terminate. No landlord may terminate a residential tenancy of a dwelling unit unless the landlord can demonstrate..."</i>	Code fails to define or elaborate the stages and/or processes involved in termination when stating that terminations without cause are prohibited. <i>"...the owner of the residential real property shall not terminate the tenancy without just cause..."</i>	Specifies that the landlord may not take any action to terminate a tenancy without cause, including but not limited to: 1. Making a demand for possession of a rental unit; 2. Threatening to terminate a tenancy verbally or in writing; 3. Serving any notice to quit or other eviction notice; 4. Bringing any action to recover possession or be granted recovery of possession of a rental unit	5.54.040(A)	1946.2	5.57.030(B)	11
Stages of Eviction							

ATTACHMENT D



August 5, 2022

Mayor Stephanie Hellman
Vice Mayor Chance Cutrano
Councilmember Renee Goddard
Councilmember Barbara Coler
Councilmember Bruce Ackerman

CC: Heather Abrams, Town Manager
David Woltering, Interim Town Planning Director

SENT VIA EMAIL

Re: Rent Stabilization Program

Dear Esteemed Officials and Town Staff:

This letter shall serve to confirm Legal Aid of Marin's commitments to Fairfax's rent stabilization program, should it be enacted. The following represents initial commitments, but we recognize the importance of collaborating with the Town Council and Staff to create a meaningful program that fits the specific needs of Fairfax residents. As such, this initial list is for the purposes of an 18-month pilot program and may be adapted during that time pursuant to that goal. Also during this pilot period, Legal Aid of Marin will not request any funding in consideration for our services..

- Support tenants and landlords to complete Individual Rent Adjustment (IRA) petition forms and any other tenant/landlord forms that may be required for administration of the rent stabilization program. Please note that no legal advice will be given and participants will be required to acknowledge their understanding prior to consultation that no attorney-client relationship will be created between participants and Legal Aid of Marin.
- Organize and conduct community workshops and infossessions on the Annual General Adjustment (AGA), rent stabilization, and just cause eviction protections.
- Organize and conduct community clinics to address individual process questions and concerns from tenants and landlords.
- Provide access by phone, email, and virtual technology to address individual process questions and concerns from tenants and landlords.

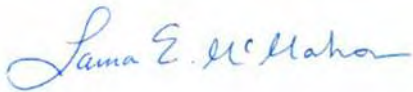
tel 415.492.0230
fax 415.492.0947
1401 Los Gamos Drive, Suite 101
San Rafael, CA 94903
www.legalaidmarin.org
www.marinprobononetworg

- Collaborate with Town Staff to produce informational materials, guidelines, and forms for the purpose of facilitating the rent stabilization program.
- Send letters to landlords who attempt unlawful rent increases or eviction.
- Conduct legal intake for direct legal services with income-qualifying tenants in disputes with landlords, as deemed appropriate by Legal Aid of Marin's Managing Attorney or their agent.
- Provide quarterly reports on rent stabilization program metrics.
- Attend quarterly check-in meetings with Town Staff, Councilmembers, and any other contractors helping to administer the rent stabilization program.

Legal Aid of Marin will not request any funding from the Town of Fairfax in exchange for the services outlined herein during this 18-month pilot period. Upon completion of this pilot period, funding requirements may become necessary to maintain services, depending on program metrics and development.

Please contact me via email at: lmcmahon@legalaidmarin.org with any questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Laura E. McMahon". The signature is written in a cursive style with a large initial "L".

Laura McMahon
Executive Director

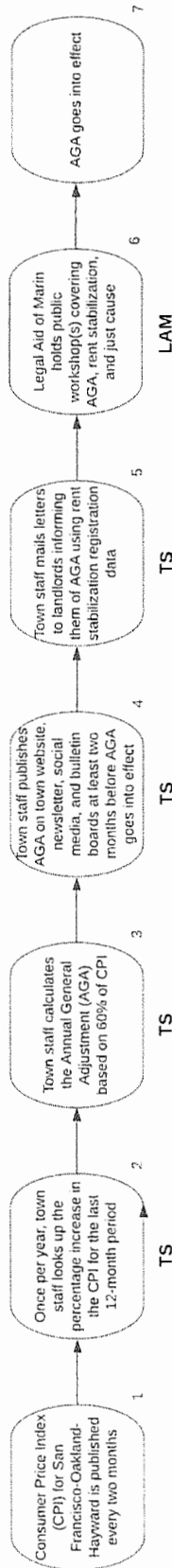
Fairfax Rent Stabilization Program Administration

Option B: Program Coordinated by Town Staff

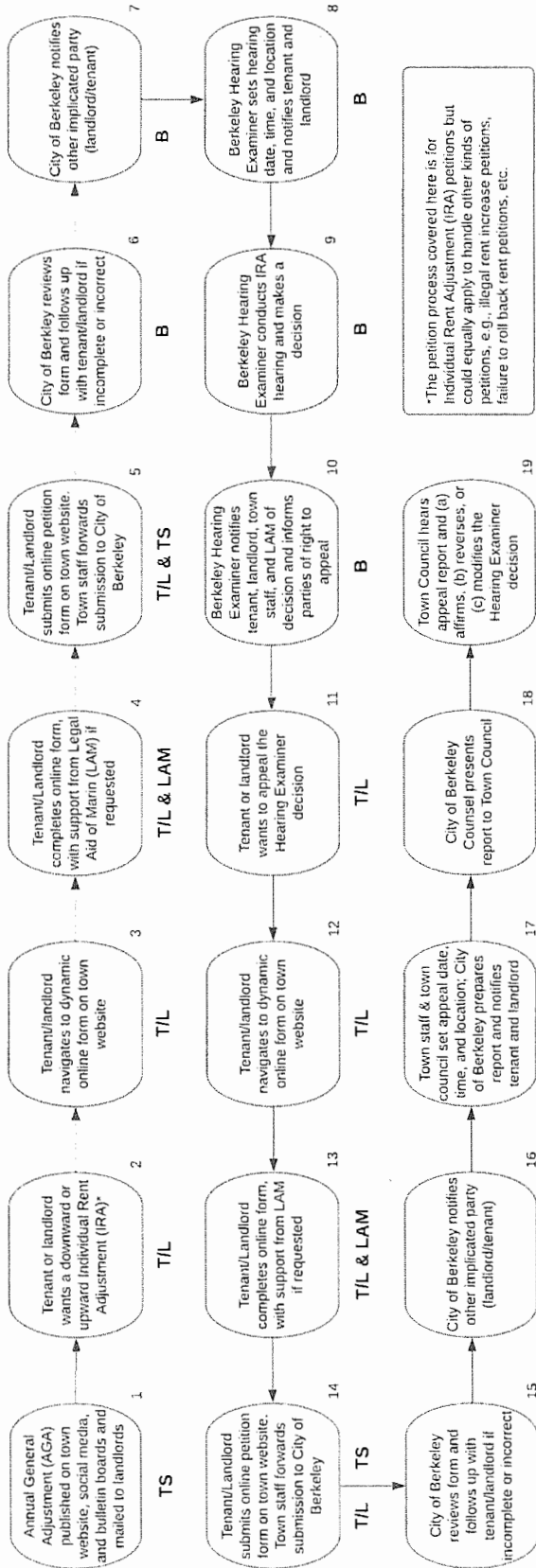
Rent Stabilization Registration



Annual General Adjustment (AGA) Determination & Publication



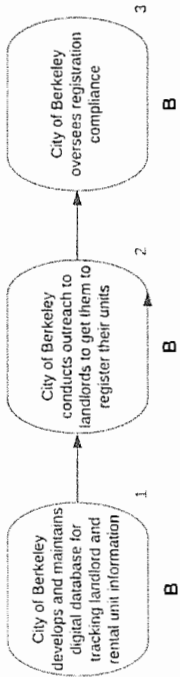
Individual Rent Adjustment (IRA) Petition & Appeal Process*



Fairfax Rent Stabilization Program Administration

Option A: Program Coordinated by City of Berkeley

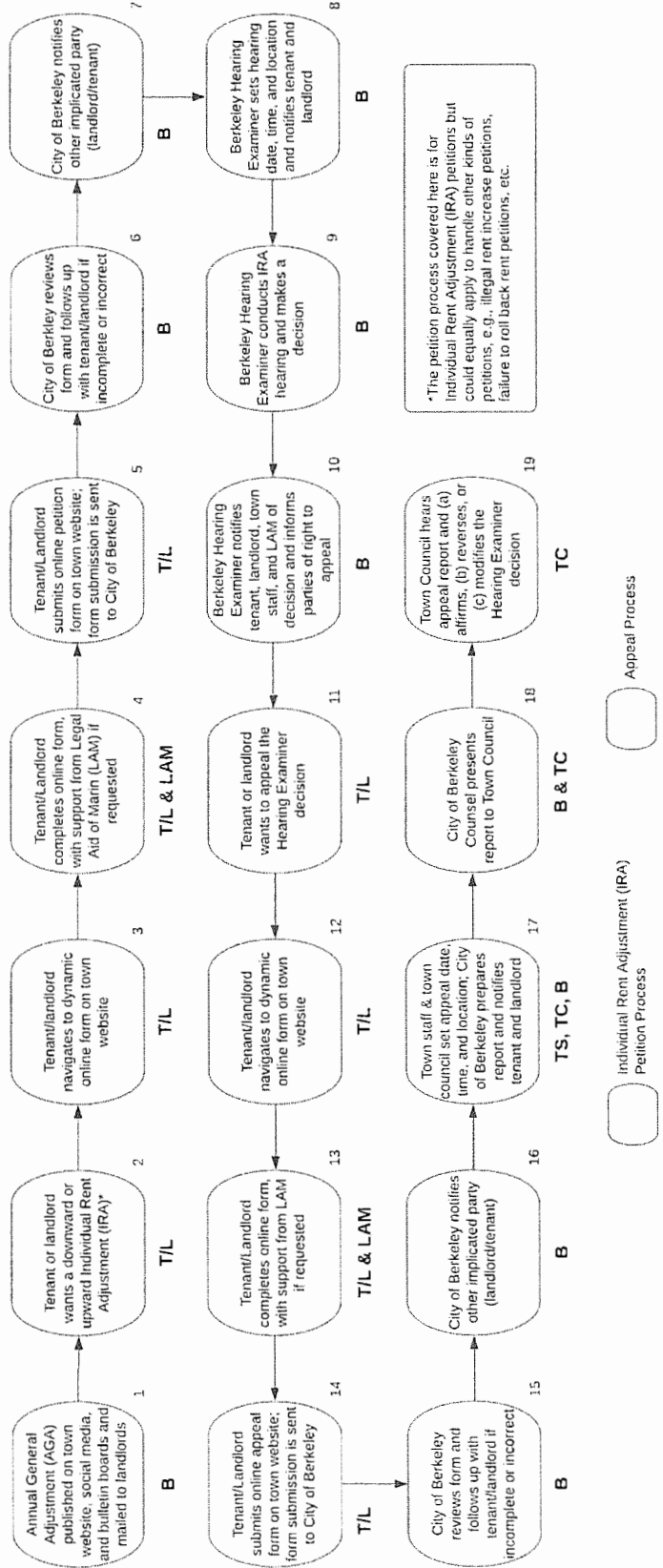
Rent Stabilization Registration



Annual General Adjustment (AGA) Determination & Publication



Individual Rent Adjustment (IRA) Petition & Appeal Process*



City of Berkeley

Rent Stabilization Program
2125 Milvia Street, Berkeley, CA 94704
Phone: (510) 981-7368 (981-RENT) Fax: (510) 981-4910

INITIAL REGISTRATION STATEMENT

In order to be legally registered you have **sixty (60) days** to submit all requested information and to pay the registration fee. After Initial Registration an annual registration fee is due by the first day of July of each year.

PART I. PROPERTY IDENTIFICATION

A. Property Address: _____ Zip Code _____

Parcel Number _____ **Owner Code** _____
(Office Use Only)

B. Owner Name: _____ Phone: _____

Street Address: _____

City, State, Zip: _____

Email: _____

C. Manager Name: _____ Phone: _____

Street Address: _____

City, State, Zip: _____

Email: _____

D. Send information to: Owner [] Manager []

E. Optional email bill reminder to third party Yes [] No [] _____ (email)

F. Date Property Purchased or Transferred _____ / _____ / _____

G. Name(s) of additional owner(s) and percentage of interest held:

<u>Name</u>	<u>%</u>	<u>Name</u>	<u>%</u>
_____	_____	_____	_____
_____	_____	_____	_____

H. Total number of residential units on the property: _____

- I. Type of Building:
- [] Single Family Dwelling/Condominium
 - [] Duplex
 - [] Rooming House
 - [] Apartment Building
 - [] Combined commercial and residential units
 - [] Other: _____

J. Do you own any other residential rental property in Berkeley? Yes [] No []
Address: _____ %: _____

PART II. RENT HISTORIES AND DEPOSITS

The following information must be submitted for each unit. If a question does not apply, please write "N/A".

A. Apt or Unit #	_____	_____	_____	_____	_____
B. # of Bedrooms (Studio = 0)	_____	_____	_____	_____	_____
C. Check if Kitchen	[]	[]	[]	[]	[]
D. Date first rented	___/___/___	___/___/___	___/___/___	___/___/___	___/___/___
E. Rent on that date	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
F. Rent 12/30/79	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
G. Rent 5/31/80	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
H. Date landlord vacated If formerly owner-occupied	___/___/___	___/___/___	___/___/___	___/___/___	___/___/___

PART III. HOUSING SERVICES

Check the housing services provided on 5/31/80 (or 12/31/81 if formerly exempt owner-occupied three or four unit property). For each unit, check box: [], if provided by owner. If not provided by owner, write the amount of fee if service is paid separately by tenant: \$ ____.

Service	Unit #:	_____	_____	_____	_____	_____
Storage	[]	\$ _____	[]	\$ _____	[]	\$ _____
Gas	[]	\$ _____	[]	\$ _____	[]	\$ _____
Electricity	[]	\$ _____	[]	\$ _____	[]	\$ _____
Water	[]	\$ _____	[]	\$ _____	[]	\$ _____
Laundry	[]	\$ _____	[]	\$ _____	[]	\$ _____
Refuse Removal	[]	\$ _____	[]	\$ _____	[]	\$ _____
Furnishings	[]	\$ _____	[]	\$ _____	[]	\$ _____
Parking	[]	\$ _____	[]	\$ _____	[]	\$ _____
Other	[]	\$ _____	[]	\$ _____	[]	\$ _____

Please Note: Designating a rental unit as properly registered does not constitute certification of the lawful base rent, current lawful rent ceiling or any other information provided on the registration statement and shall not preclude the Board or any person from challenging the accuracy of any information provided. (Regulation 801 (C))

I declare under penalty of perjury that the above information is true and correct to the best of my knowledge and belief.

Signature _____ Date _____

City of Berkeley

Rent Stabilization Program

2125 Milvia Street, Berkeley, CA 94704

Phone: (510) 981-7368 [981-RENT] Fax: (510) 981-4910

E-mail: rent@cityofberkeley.info • Web: www.cityofberkeley.info/rent

For Office Use Only

Date: _____

Initials: _____

VR# _____

VACANCY REGISTRATION FORM

(Instructions provided on back)

Please do not file this form for fully or partially-exempt tenancies such as those under Section 8.

Berkeley Rental Property Address:

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------

Street Number Street Name Unit # # of Bedrooms # of Units/Prop.

Owner/Agent Information (If new owner or agent, please also complete an Amended Registration Statement):

OWNER: Check if new owner/address

AGENT/MANAGER: Check if new agent/address

Name: _____

Name: _____

Address: _____

Address: _____

City, State, ZIP: _____

City, State, ZIP: _____

Phone: (____) _____

Phone: (____) _____

Email: _____

Email: _____

Send all future correspondence and bills to: OWNER AGENT/MANAGER

Current Tenancy Information: Tenant names and other tenant information will be kept confidential in accordance with the Information Practices Act of 1977.

Beginning date of this tenancy: ____/____/____ Number of tenants: _____ Initial Rent: \$ _____

Name: _____

Name: _____

Day Phone: (____) _____

Day Phone: (____) _____

Email: _____

Email: _____

Name: _____

Name: _____

Day Phone: (____) _____

Day Phone: (____) _____

Email: _____

Email: _____

Housing Services: Check the Housing Services provided or paid by the Owner for the individual unit.

Storage Gas Electricity Water Garbage Parking Laundry Access Heat
Appliances Other _____

Does Lease Prohibit Smoking? Yes No Effective date of smoking prohibition: ____/____/____

Prior Tenancy Information: Ending date of prior tenancy: ____/____/____ Voluntary vacancy? _____

Termination by Owner _____ Other (explain): _____

Check one: I am the owner or the owner's agent. I am the tenant (please attach lease agreement).

Declaration: I hereby declare under penalty of perjury that all the information in this Vacancy Registration Form is true and correct to the best of my knowledge and belief.

PRINT Name

Signature

Date

VACANCY REGISTRATION

(This form should not be filed for a tenancy that is exempt from RSB registration requirements.)

A Vacancy Registration form must be filed for all non-exempt units within fifteen (15) days **after** 1) the start of a completely new tenancy OR 2) the last of the original members of the previous tenancy have departed. The property is deemed out of compliance with registration requirements until filing is completed. (Regulation 1013(K))

Information on this form is used to update the Rent Stabilization Program's records to reflect the current tenants' rent, the number of tenants, and services. Tenants' names must be provided. State law requires the Rent Stabilization Board to ensure the confidentiality of personal information supplied on this Vacancy Registration form.

A tenancy started after any of the following events is not eligible for a new initial rent level: 1) service of a 30 day or longer notice to vacate (e.g. termination for owner/family move-in; removal of the unit from the rental market via the Ellis Act); 2) termination by tenants after code citations remained unabated for sixty days; and 3) termination by tenant after the owner unilaterally changed the terms of the tenancy. The previous lawful rent ceiling will remain in effect for such new tenancies.

If this unit was previously exempt and is now coming back under rent stabilization, a registration fee is due. You may call our Registration Unit (510) 981-4920 for billing information.

If this unit was registered and is now exempt from the registration requirement, you must file an Amended Registration Statement.

If the owner fails to timely file Vacancy Registration information or if the tenant disagrees with the information on the Vacancy Registration form filed by the owner, the tenant may file this form setting forth the required information. The tenant should attach copies of the written rental agreement(s) or other documents showing the correct information.

INSTRUCTIONS FOR COMPLETING THIS FORM

Berkeley Property Address - Write the complete mailing address for this unit. Provide the number of bedrooms in this unit and the total number of units on this property in the appropriate places.

Owner and Agent Information - Provide the name, telephone number and email address of the owner and the owner's authorized representative, if applicable. If the owner's address is different than the address on record or this is a new owner, please check "New owner/address" and file an Amended Registration Statement. If this is a new agent, check "New agent/address." If you list both an owner and an agent, please let us know to whom to send all future notices, correspondence and bills by marking an "X" to select Owner or Agent.

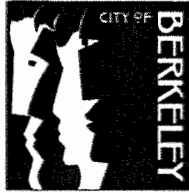
Current Tenancy Information - List the name, telephone number and email address for each tenant over age 18. (See second paragraph re confidentiality of this information.) If you need additional space, please attach an extra sheet of paper. Indicate the NUMBER of tenants, the DATE the tenant(s) moved in and the total monthly rental payment for the unit. Also check the boxes for the HOUSING SERVICES paid by the owner. The terms you have actually established with the tenant will be the controlled base for the unit until there is a new qualifying tenancy. Finally, as of May 1, 2014, B.M.C. 12.70 prohibits smoking in 100% of multi-unit housing with two or more units. This ordinance requires that leases for all tenancies starting after May 1, 2014, include prohibitions on smoking. Please indicate whether or not the current lease prohibits smoking in the unit, and the date that the prohibition on smoking took effect.

Prior Tenancy Information - Indicate the DATE the unit became vacant or the DATE the last of the original members of the previous tenancy departed. Complete the section describing the reason for this vacancy. Check one reason or use your own words to describe why the last tenant vacated the unit.

Declaration - The person completing the form must certify under penalty of perjury that all information provided is true and correct.

NOTE: Tenant names and other tenant information will be kept confidential in accordance with the Information Practices Act of 1977.

Internal



Rent Stabilization Board

June 15, 2022

New Property Owner
1414 Stannage Ave.
Berkeley, CA 94702

Re: 1414 Stannage Ave.

Dear New Property Owner:

It has come to our attention that you are the new owner of the above-referenced property. We are pleased to welcome you to the City of Berkeley. Please find enclosed our "Guide to Rent Control and Eviction Protection," as well as other materials for owners of rental property covered by the Berkeley Rent Ordinance.

Pursuant to our regulations we kindly request that you fill out and return the enclosed Amended Registration Statement and Vacancy Registration Forms detailing the change of ownership and any changes in the rental status for your units. Any rented unit on the property is subject to all tenets of the Berkeley Rent Ordinance and must be registered. You can register any rented unit by filling out one of the enclosed Vacancy Registration Forms, providing the tenancy information *for the most recent tenancy only*.

Property owners are required to report any changes in the status of rental units within 60 days of the date of the status change. Annual registration fees are due by July 1st of each year. The fee for the 2021/2022 fiscal year is \$250 per unit for any unit rented on July 1, 2021. Payments not received or postmarked by July 1st are subject to a 100% penalty. An additional 100% is applied every six months the fee remains unpaid.

Landlords of rental units not in compliance with the registration requirements of the Rent Ordinance may neither raise rents above the lawful rent ceiling nor initiate eviction proceedings against tenants. Please see the attached notice for more information on your obligations as a Berkeley property owner.

Please return the information within 15 days of receipt. Housing counselors are also available to answer your questions by telephone during our business hours (Monday/Tuesday/Thursday/Friday 9:00 a.m. – 4:45 pm; closed Wednesdays). Our office is open for drop-in clients Monday, Tuesday, Thursday and Friday from 9 am-2 pm.

Sincerely,

Registration Unit Manager

Notice to New Property Owners

Please be aware that the Berkeley Rent Ordinance requires you to observe the following conditions for existing tenants:

1. The right to the existing lease agreement

New owners must abide by all the terms of the existing lease agreement. A new landlord may not compel a tenant to sign a new lease agreement if the original lease has expired, and a new landlord may not make unilateral changes to the existing lease agreement (i.e., without the signed consent of the tenant).

2. The right to stay unless the landlord has “good cause” to evict

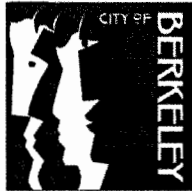
A landlord must cite one of the Ordinance’s enumerated “good causes for eviction” in order to evict a tenant. **Change of ownership is NOT a good cause for eviction.** Furthermore, a landlord cannot evict a tenant just because the tenant’s lease has expired.

3. The right to the lawful rent ceiling

Change of ownership does not allow a landlord to increase rent above the rent ceiling although a landlord can usually raise a tenants’ rent to the lawful rent ceiling.

4. The right to interest on the tenant’s deposit

Landlords must pay interest on their tenants’ security deposit every December at a rate published on the website of the Berkeley Rent Stabilization Program (www.cityofberkeley.info/rent).



QUESTIONS?

Ask a Rent Board Housing Counselor

510-981-RENT (7368), Ext. 1