



Rent Stabilization Board

RENT STABILIZATION BOARD
Regular Meeting
Thursday, April 15, 2021
7:00 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City of Berkeley Rent Stabilization Board (Rent Board) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, **there will not be a physical meeting location available.**

To access this meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device by clicking on this URL: <https://zoom.us/j/95480886658?pwd=SmJrc1QzdDczeDltaHhySWxndndVQT09>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "Raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-669-900-6833 and enter Meeting ID: 954 8088 6658 and Passcode: 427413. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

To submit an e-mail comment to be read aloud during public comment, email amueller@cityofberkeley.info with the Subject Line in this format: "RENT BOARD MEETING PUBLIC COMMENT ITEM." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 5:00 p.m. on the day of the meeting in order to be included.**

Please be mindful that this meeting will be recorded, and all other rules of procedure and decorum will apply for Rent Board meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with Government Code Section 54953, 54956, and all current state and local requirements allowing public participation in meetings of legislative bodies. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Matt Brown, Acting Executive Director, at (510) 981-7368. The Rent Board may take action related to any subject listed on the Agenda.

RENT STABILIZATION BOARD

Regular Meeting

Thursday, April 15, 2021

7:00 p.m.

Regular Meeting Minutes - *Unapproved*

1. **Roll call** – Chair Simon-Weisberg called the meeting to order at 7:02 p.m.
Aimee Mueller called roll.
Commissioners present: Alpert (logged off after Closed Session), Chang (logged on at 8:55 p.m.), Johnson, Kelley (logged on at 7:25 p.m.), Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg.
Commissioners absent: None.
Staff present: Brown, Mueller, Siegel, Wu.
2. **Approval of Agenda** – M/S/C (Laverde/Johnson) MOTION TO APPROVE THE AGENDA WITH THE FOLLOWING CHANGES: MOVE WAIVER NOS. 4964 AND 4969 TO CONSENT; ADJOURN IN HONOR AND MEMORY OF KAYLA MOORE, DAUNTE WRIGHT, AND ADAM TOLEDO. Roll call vote. YES: Alpert, Johnson, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: Chang, Kelley. Carried: 7-0-0-2.
3. **Public Comment** – for *non*-agendized items: There was one speaker. Matthew Lewis spoke about Council’s “up-zone” proposal and Penal Code 396.
4. **CONSENT ITEMS**

Waiver Nos. 4964 and 4969 were moved to Consent by a prior vote of the Board. In the motion on the Consent items, the Board moved item 4.d. to Action.

- a. Approval of the March 18th regular meeting minutes:
- b. Recommendation to adopt proposed amendments to Regulation 1013 – Second reading (IRA/AGA/Registration Committee and Acting Executive Director)
- c. Recommendation to adopt Resolution 21-04 revising the Rent Board’s Regular Meeting Schedule for 2021 (Chair Simon-Weisberg and Acting Executive Director)
- d. Recommendation that the Chair disband the Habitable and Sustainable Housing Committee (HASH) (Chair Simon-Weisberg and Acting Executive Director) – *This item was heard on the action calendar.*

M/S/C (Chang/Selawsky) MOTION TO DISBAND THE HASH COMMITTEE.
Roll call vote. YES: Alpert, Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None.
Carried: 9-0-0-0.

- e. Proposal to approve staff recommendations on the following requests for waivers of late registration penalties (Acting Executive Director and Registration Unit Supervisor)

Administrative Waiver

<u>Waiver No.</u>	<u>Property Address</u>
4966	2149 Russell Street

Ministerial Waivers

<u>Waiver No.</u>	<u>Property Address</u>
4940	1604 Derby Street
4943	2441 McKinley Avenue
4958	1437 Oxford Street
4959	1737 San Pablo Avenue
4960	1312 Carleton Street
4961	2214 Martin Luther King Jr. Way
4963	1269 Alcatraz Avenue

Discretionary Waivers

<u>Waiver No.</u>	<u>Property Address</u>
4944	2057 Emerson Street
4952	515 Colusa Avenue
4964	2001 Allston Way
4965	1115 Ward Street
4967	2035 Parker Street
4969	2610 College Avenue

M/S/C (Alpert/Johnson) MOTION TO APPROVE CONSENT ITEMS 4.a., 4.b., 4.c., AND 4.e EXCEPT WAIVER NOS. 4964 AND 4969. ***Friendly amendment by Laverde (accepted):*** MOVE CONSENT ITEM 4.d. TO ACTION. Roll call vote. YES: Alpert, Johnson, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: Chang, Kelley. Carried: 7-0-0-2.

Waiver Nos. 4964 and 4969 were heard on the action calendar.

M/S/C (Simon-Weisberg/Alpert) MOTION ON WAIVER NO. 4964 TO WAIVE 100% OF THE PENALTIES. YES: Alpert, Chang, Johnson, Kelley, Laverde, Mendonca, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None; RECUSED: Selawsky*. Carried: 8-0-0-0-1.

*Commissioner Selawsky recused himself as a former employee of the organization that owns the property.

M/S/C (Simon-Weisberg/Chang) MOTION ON WAIVER NO. 4969 TO IMPOSE THE FULL PENALTY OF \$4,500. Roll call vote. YES: Alpert, Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: None. Carried: 9-0-0-0.

5. Public Comment – for **agendized** items: There were no speakers.

6. **Special Presentation:** Rent Board Resolution 21-03 in honor of Dorothy King, Everett & Jones owner and long-time tenant advocate for the unhoused

Commissioner Walker read the resolution aloud.

a. Recommendation to adopt Resolution 21-03 in honor of Dorothy King

M/S/C (Walker/Mendonca) ADOPT RESOLUTION 21-03 AS WRITTEN. Roll call vote. YES: Alpert, Johnson, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: Chang, Kelley. Carried: 7-0-0-2.

7. **ACTION ITEMS**

Waiver Nos. 4964 and 4969 were moved to Action by a prior vote of the Board. In the motion on the Consent items, the Board moved item 4.d. to Action.

a. From Board Members, Committees, and Executive Director

(1) Presentation on Housing Legislation by Rent Board Legislative Advocate, Brian Augusta

- a. State Legislative Report – Mr. Augusta presented to and took questions from the Board.
- b. Recommendation that the Board take a position on Assembly Bill (AB) 1199 [Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements]
- c. Recommendation that the Board take a position on AB 854 [Residential real property: withdrawal of accommodations]
- d. Recommendation that the Board take a position on AB 1188 [Rental registry online portal]

M/S/C (Alpert/Selawsky) SUPPORT AB 1199, BUT URGE THE AUTHOR TO INCLUDE AN APPROPRIATE ENFORCEMENT MECHANISM FOR THE PROHIBITION ON PASSING THE TAX ON TO TENANTS; SUPPORT AB 854; AND DEFER AB 1188 TO THE NEXT MEETING . Roll call vote. YES: Alpert, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: Chang. Carried: 8-0-0-1.

(2) Proposed next steps for Rent Board Executive Director Recruitment and Hiring Process (Chair Simon-Weisberg and Vice-Chair Soli Alpert) – After extensive discussion, the chair proposed that this item be carried over to the next meeting without objection.

8. INFORMATION, ANNOUNCEMENTS AND NEWS ARTICLES

**ALL ITEMS BELOW WERE EACH MENTIONED OR BRIEFLY DISCUSSED.
UNDERLINED ITEMS HAVE ADDITIONAL COMMENTS.**

a. Reports from Board Members/Staff

- (1) Copy of April 6, 2021 Apparent Lawful Rent Ceiling mailing to Berkeley property owners (Acting Executive Director)
- (2) Updated Market Medians report through the fourth quarter of 2020 (Acting Executive Director)
- (3) Update on recent/upcoming Rent Board outreach events (Acting Executive Director)
 - a. Tuesday, March 9, 2021 (10:00 - 11:30 AM) – Rent Control Basics, Eviction Moratorium, COVID-19, and Measure MM webinar presented to Red Oak Realty:
 - b. Wednesday, March 24, 2021 (10:00 - 11:30 AM) – Security Deposits: Rights and Responsibilities webinar
 - c. Wednesday, April 7, 2021 (10:00 - 11:30 AM) – Buying and Selling Rental Property in Berkeley webinar
 - d. Wednesday, April 14, 2021 (10:00 – 11:30 AM) – Measure MM webinar
- (4) Copy of March 18, 2021 letter to the Mayor, Council and the Planning Commission conveying the Rent Board’s recommended amendments to the proposed “Inclusive Neighborhood Zoning” proposal (Acting Executive Director)
- (5) Date to submit agenda topics/items for the May 6, 2021 Rent Board meeting:
Monday, April 26th

9. COMMITTEE/BOARD MEETING UPDATES AND ANNOUNCEMENTS

- a. Budget and Personnel Committee (Commissioner Selawsky, Chair)
Next regularly-scheduled meeting: Thursday, April 22nd at 5:00 p.m.
 - (1) March 25th agenda
- b. Eviction/Section 8/Foreclosure Committee (Commissioner Mendonca, Chair)
Next regularly-scheduled meeting: Thursday, May 13th at 5:30 p.m.
- c. Habitable & Sustainable Housing (HASH) Committee

- d. IRA/AGA/Registration Committee (Commissioner Kelley, Chair)
Next regularly-scheduled meeting: Thursday, May 20th at 5:00 p.m.
- (1) April 6th
- e. Outreach Committee (Commissioner Laverde, Chair) – Commissioner Laverde reported that the Committee will recommend hiring Dr. Stephen Barton to consult on moving a tenant survey forward, and contracting with a firm to do the survey early next year.
- Next regularly-scheduled meeting:
- (1) March 24th agenda
- f. 2 x 2 Committee on Housing: Rent Board/Berkeley Unified School District
Chair: TBD
Next regularly-scheduled meeting: TBD
- g. 4 x 4 Joint Committee on Housing: City Council/Rent Board
Committee Co-Chairs: Mayor Arreguín and Chair Simon-Weisberg
Next regularly-scheduled meeting: Wednesday, April 28th at 3:00 p.m.
- h. Ad Hoc Committee on RSB Technology Issues (Chair TBD)
Next meeting date: TBD
- i. Updates and Announcements
- j. Discussion of items for possible placement on future agenda

At this point, the Board adjourned to reconvene in Closed Session.

10. CLOSED SESSION – Pursuant to California Government Code Section 54956.9(d)(1), the Board will convene in closed session for an update on litigation as follows:

- *Community Housing Improvement Program v. City of New York Rent Guidelines Board* (U.S. Court of Appeal, 2nd Cir., Case #20-3366)
- *Magganas v. City of Berkeley Rent Board* (Alameda County Superior Court Case # RG20092970)

Following their return to open session, the Chair announced the following: The Board made a decision to support amicus efforts by the Rent Board on *Community Housing Improvement Program v. City of New York Rent Guidelines Board* (U.S. Court of Appeal, 2nd Cir., Case #20-3366)

11. **ACTION ITEM**: Discussion and possible action regarding RWN-1649 (*Knighon v. Magganas*) (Acting Executive Director and Legal Staff)

M/S/C (Johnson/Laverde) MOTION TO SET ASIDE THE BOARD'S PREVIOUS DECISION ON APPEAL IN RWN-1649 AND HEAR THE CASE AGAIN. Roll call vote. YES: Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: Alpert. Carried: 8-0-0-1.

12. **ADJOURNMENT** – M/S/C (Johnson/Selawsky) MOTION TO ADJOURN THE MEETING IN HONOR AND MEMORY OF KAYLA MOORE, DAUNTE WRIGHT, AND ADAM TOLEDO. Roll call vote. YES: Chang, Johnson, Kelley, Laverde, Mendonca, Selawsky, Walker, Simon-Weisberg; NO: None; ABSTAIN: None; ABSENT: Alpert. Carried: 8-0-0-1.

The meeting adjourned at 11:11 p.m.