



Rent Stabilization Board

DATE: October 21, 2021
TO: Honorable Members of the Berkeley Rent Stabilization Board
FROM: Matt Brown, Acting Executive Director
By: Matthew Siegel, Staff Attorney *MS*

SUBJECT: Resolution Making Required Findings Pursuant to Government Code and Directing Rent Board to Continue to Meet Via Videoconference and Teleconference

RECOMMENDATION

That the Board adopt a resolution making the required findings pursuant to California Government Code Section 54953(e)(3) and determine, that, as a result of the continued threat to public health and safety posed by the spread of COVID-19, the Board shall continue to meet via videoconference and teleconference and that further, the Board may choose to follow future determinations as made by City Council as it pertains to the continued use of videoconference and teleconference meetings.

BACKGROUND AND NEED FOR BOARD ACTION

On March 3, 2020 the City Manager proclaimed a local emergency due to the global spread of COVID-19 and its effect on Berkeley citizens. On March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency due to the spread of COVID-19. This proclamation was ratified by Berkeley City Council on March 10, 2020.

On March 17, 2020, Governor Newsom signed Executive Order N-29-20 suspending certain provisions of California Government Code Section 54950 et seq. ("Brown Act"). Among other things the Order suspended requirements for in-person legislative meetings and suspended the requirement that each location from which an official accesses a teleconferenced meeting be accessible to the public. The Rent Board has been holding public meetings via video and teleconference pursuant to these provisions since March 2020. The Governor's Executive order expired on September 30, 2021.

On September 16, 2021 Governor Newsom signed into law Assembly Bill 361 (initiated by Assembly Member Rivas) which amended the Brown Act to authorize legislative bodies such as City Councils and the Rent Board, during the state of emergency to determine that, due to the

continued spread of COVID-19, public meetings could still be held via video and teleconference. Assembly Bill 361 requires that legislative bodies review and ratify such a determination every thirty (30) days. On September 28, 2021 City Council adopted Resolution 70,030-N.S. making the required findings pursuant to state law to allow for the continued use of video and teleconferencing of public meetings.

As a separate legislative body the Board should adopt a resolution making findings pursuant to California Government Code Section 54953(e)(3) authorizing the continued use of video and teleconferencing for future Board meetings and agreeing, at its discretion, to follow future City Council determinations as it pertains to the continued use of video and teleconferencing for public meetings.

FISCAL IMPACTS

The Board, like City Council, is currently using Zoom to conduct its meetings. The Board is also using Zoom to conduct Rent Board hearings, mediations and staff meetings. Since the Board is continuing to use Zoom for uses other than Board and Committee meetings, there are no additional financial impacts.

Name and Telephone Number of Contact Person:

Matthew Siegel, Staff Attorney (510) 981-7368

RESOLUTION 21-29

RESOLUTION MAKING THE REQUIRED FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 54953(e)(3) PERMITTING THE BOARD TO CONTINUE TO CONDUCT ITS PUBLIC MEETINGS VIA VIDEOCONFERENCE AND TELECONFERENCE AND FURTHER ALLOWING, AT THE BOARD'S DISCRETION, THE BOARD TO FOLLOW FUTURE DETERMINATIONS AS MADE BY CITY COUNCIL AS IT PERTAINS TO THE CONTINUED AND ONGOING USE OF VIDEOCONFERENCE AND TELECONFERENCE FOR ITS PUBLIC MEETINGS

WHEREAS, the City Manager, on March 3, 2020, proclaimed the existence of a local emergency caused by the epidemic in the form of global spread of COVID-19; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency with the passage of Resolution 69-312; and

WHEREAS, on March 10, 2020, the City Council ratified the Proclamation of Local Emergency with the passage of Resolution 69-312; and

WHEREAS, on March 17, 2020, Governor Newsom signed Executive Order N-29-20 which suspended the provisions of California Government Code Section 54950 et seq. ("Brown Act") that required that each location from which a public official accesses a teleconferenced meeting be accessible to the public and also suspended the requirements for in-person legislative meetings; and

WHEREAS, Executive Order N-29-20 expired on September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed into law Assembly Bill 361, which amended the Brown Act to authorize legislative bodies such as City Councils and the Rent Board, during the state of emergency, to determine that due to the continued spread of COVID-19, public meetings may still be held via video and teleconference; and

WHEREAS, the Board does find that the aforesaid conditions and harm caused by the continued spread of COVID-19 continue to exist, and now include over 4,700 confirmed cases of COVID-19 and at least 55 deaths in the City of Berkeley; and

WHEREAS, as a result of the continued threat to public health posed by the spread of COVID-19, state and local officials continue to impose or recommend measures to promote social distancing, mask wearing and vaccination; and

WHEREAS, holding public meetings in person would present imminent risks to the health and safety of the public and members of the Board, and therefore public meetings cannot be safely held in person at this time; and

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WHEREAS, AB 361 requires legislative bodies to review the need for the continuing necessity of holding legislative meetings via video and teleconferencing every thirty days; and

WHEREAS, Berkeley City Council will need to again review the need for the continuing necessity of holding legislative meetings via video and teleconferencing every thirty days; and

WHEREAS, the Board, as a separate legislative body may, at its discretion follow the direction of City Council as it pertains to the continued use of video and teleconferencing for future public meetings;

NOW THEREFORE, BE IT RESOLVED by the City of Berkeley Rent Stabilization Board that, pursuant to California Government Code Section 54953, the Board has reviewed the circumstances of the continued state of emergency posed by the spread of COVID-19, and finds that the state of emergency continues to directly impact the ability of the public and members of the Board to meet safely in person, that holding public meetings in person would present imminent risks to the health and safety of attendees, and that state and local officials continue to promote social distancing, mask wearing and vaccination; and

BE IT FURTHER RESOLVED that the Berkeley Rent Stabilization Board shall continue to hold public meetings via videoconference and teleconference; and

BE IT FURTHER RESOLVED that while the Board retains independent discretion to choose to continue to meet via videoconference and teleconference, until further notice the Board will follow the direction of City Council when, pursuant to law, it renews and/or reauthorizes the use of video and teleconferencing for public meetings; and

BE IT FURTHER RESOLVED that the Board shall comply with the requirements of California government Code Section 54953(e)(2) and all applicable laws, regulations and rules when conducting public meetings pursuant to this resolution.

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Dated: October 21, 2021

Adopted by the Rent Stabilization Board of the City of Berkeley by the following vote:

YES:

NO:

ABSTAIN:

ABSENT:

Leah Simon-Weisberg, Chair
Rent Stabilization Board

Attest: _____
Matt Brown, Acting Executive Director