



RENT STABILIZATION BOARD
BUDGET & PERSONNEL COMMITTEE MEETING

Thursday, June 11, 2020

5:00 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 Rent Stabilization Board's **Budget & Personnel Committee** (Committee) 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://us02web.zoom.us/j/85047313802>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial 1-669-900-6833 and enter Webinar ID: 850 4731 3802. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Committee Chair.

To submit an e-mail comment to be read aloud during public comment, email mbrown@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM FOR BUDGET & PERSONNEL COMMITTEE". Please observe a 150-word limit. Time limits on public comments will apply. Written comments will be entered into the public record. **Email comments must be submitted to the email address above by 3:00 p.m. on the day of the Committee 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 meetings conducted by teleconference or videoconference.

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



Rent Stabilization Board

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair-accessible location.

To request disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact Aimee Mueller at 981-4932 or 981-6903 (TDD) *at least three business days before* the meeting date.



Please refrain from wearing scented products to this meeting.

RENT STABILIZATION BOARD

BUDGET & PERSONNEL COMMITTEE MEETING

Thursday, June 11, 2020 – 5:00 p.m.

AGENDA

1. Roll Call
2. Approval of Agenda
3. Public Comment
4. Approval of June 5, 2020 Meeting Minutes (Attached to Agenda)
5. Discussion, and Possible Action regarding Recommendation to full Board to Adopt Fiscal Year (FY) 2020/21 Line-Item Budget, Staffing Model & Expenditure Level (See Attached Staff Report).
6. Discussion and Possible Action on possible trainings and team-building exercises for Commissioners
7. Future agenda items
 - ➔ Recruitment options for vacant Executive Director position
 - ➔ Mid-year Budget Review
8. Discussion and Possible Action to set next committee meeting
9. Adjournment

STAFF CONTACT: Matt Brown, Acting Executive Director (510) 981-7368

COMMITTEE: Paola Laverde, Leah Simon-Weisberg, John Selawasky, Igor Tregub (Chair)



Rent Stabilization Board

RENT STABILIZATION BOARD BUDGET & PERSONNEL COMMITTEE MEETING

Friday, June 5, 2020 – 8:00 a.m.

Meeting Minutes To Be approved

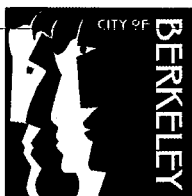
1. Roll Call. – 8:11 a.m.
Members present: Laverde (left meeting at 8:55am, Selawsky Simon-Weisberg, and Tregub (arrived at 8:20 a.m.)
Staff present: Bursell, and Brown.
2. Approval of Agenda. M/S/C (Laverde, Simon-Weisber) Approve agenda. Roll call vote. YES: Laverde, Simon-Weisberg, Selawsky. NO: None: Abstain: None: ABSENT: Tregub. Carried: 3-0-0-1.
3. Public Comment. One speaker.
4. Approval of May 13, 2020 Meeting Minutes (Attached to Agenda). M/S/C (Laverde, Simon-Weisberg). Roll call vote. YES: Laverde, Simon-Weisberg, Selawsky. NO: None: Abstain: None: ABSENT: Tregub. Carried: 3-0-0-1.
5. Update, Discussion, and Possible Action regarding Fiscal Year 2020/2021 budget (See attached report). No action taken.
6. Discussion and Possible Action regarding current staffing model and potential adjustments. Committee asked staff about giving public trainings and workshops over Zoom platform and to post video trainings on the web. No other action taken.
7. Discussion and Possible Action on possible trainings and team-building excercises for Commissioners. M/S/C (Laverde, Tregub) Review trainings and film series from World Trust for inclusion in training and team-building recommendation to the full Board. Roll call vote. YES: Simon-Weisberg, Selawsky, Tregub. NO: None: Abstain: None: ABSENT: Laverde. Carried: 3-0-0-1.
8. Future agenda items and scheduling next meeting. The Committee agreed to meet next on Thursday, June 11th at 5:00 p.m, pending Rent Board Chair Laverde’s availability. Thursday, June 11th at 8:00 a.m was agreed upon as an alternate meeting time.

The Committee agreed to add proposals on trainings and team-building exercises to their next agenda and added “Recruitment options for vacant Executive Director position” as

a future agenda item.

9. Adjournment. M/S/C (Tregub, Simon-Weisberg) Adjourn meeting. Roll call vote. YES: Simon-Weisberg, Selawsky, Tregub. NO: None: Abstain: None: ABSENT: Laverde. Carried: 3-0-0-1. Meeting adjourned at 9:06 a.m.

STAFF CONTACT: Matt Brown, Acting Executive Director (510) 981-7368



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: June 11, 2020

TO: Honorable Members of the Budget & Personnel Committee

FROM: Matt Brown, Acting Executive Director ^(MB)
Lief Bursell, Senior Planner

SUBJECT: Adoption of FY 2020/21 Line-Item Budget, Staffing Model & Expenditure Level

Recommendation:

That the Board adopt the attached resolution approving the FY 2020/21 line-item budget and staffing model of 22.35 FTE career employees (23.35 FTE including temporary employees) and authorizing an overall spending level of just over \$6,096,000, which includes \$465,000 in expenditures from the Board's Capital Reserve.

Background and Need for Rent Board Action

Legally, the Board has through the end of June to adopt a staffing model and budget with a maximum expenditure authorization for FY 2020/21. The process for adopting the annual budget is guided by the Budget and Personnel Committee. The Board received budget updates and discussed both the current year as well as next year's budget on April 30th and May 21st full Board meetings. At the April 30th meeting the Board voted to keep the annual registration fee at \$250 per unit. The Board felt comfortable going an additional year without adjusting the fee because of Fund 440's larger than expected uncommitted reserve balance, caused by staff turnover and unexpected vacancies in several previously-budgeted positions. These staffing changes have resulted in some delays in delivery of services and/or deferral of some new initiatives or projects. Staff has worked hard to strike the proper balance of submitting a proposed budget and staffing model in line with the Board's goals of maintaining fiscal responsibility while still providing quality service to the community. While it remains to be seen how the current COVID-19 pandemic and accompanying Shelter in Place Orders will affect our collection of Registration Fees, it is reasonable to expect that there will at least be some short term revenue gaps that we do not normally anticipate when preparing the budget and staffing model.¹ For that reason, staff recommends a cautious approach when establishing the initial staffing levels and services for the coming year. To this end, staff believes it imperative that the Board incorporate a formal mid-year budget review as part of the process for adopting the budget

¹ Board staff sent Registration Fee bills to all landlords earlier than usual, so that we would give the community ample time to review the information. The Registration Unit supervisor has reported that while landlords have been sending in payments, we have thus far received proportionally less than in years' past.

for FY 2020/21. At that time, the Board will surely be able to make more informed choices regarding to what extent it is able to fill several positions and/or fund program enhancements.

Update on FY 2020 Budget Status and Year-End Projections

On April 30th, the night the Board adopted the annual registration fee, the Board received a 2/3-year budget update. At that time, staff projected that we would end the current fiscal year with an uncommitted fund balance of a little over \$900,000. Included in the attached documents (Attachment 3) before you this evening is the 3/4-year line-item budget update, which projects the year-end uncommitted operational fund balance of approximately that amount. There is an additional Capital Reserve of \$500,000. As has been discussed regularly over the past three years, \$400,000 of this Capital Reserve is earmarked for upgrades and/or a more cost-effective replacement of the Board's rent tracking database. We project that our revenues for the fiscal year will exceed our expenditures by at least \$160,000. This represents significant and unplanned for savings given that the Board adopted a budget that included \$410,000 in deficit spending. This is mostly due to salary savings from several unexpected retirements/departures as well as ongoing vacant positions. Some of these savings were counterbalanced by revenue collections coming in lower than we expected. At this point, we project revenues to end the year \$130,000 under budget. At this point we project that the Board will start FY 2020/21 with a uncommitted fund balance of just over \$910,000,

Programmatic Accomplishments and the Need to Maintain Current Staffing Level

As with most years, the Board and Program have much to be proud of over the past 12 to 18 months. Together, once again, we have experienced an extraordinarily productive period, both administratively and in promoting sound public policy, despite shortages and turnover of several key staff. The overwhelming majority of staff's time, energy and resources go to performing our core services. Our ongoing core efforts are described, in detail, in Attachment 2. Our time and energy largely focus on providing the following five essential services:

1. Regularly communicating with Berkeley's 50,000 plus tenants and 2,800 landlords to ensure they are aware of the protections, requirements and services under the Rent Stabilization and Eviction for Good Cause Ordinance.
2. Providing counseling and other direct services to over 1,000 clients per month who call, come through our doors or write seeking our advice and assistance. The majority of these contacts are with Berkeley property owners.
3. Issuing administrative hearing decisions on upwards of 140 petitions and roughly 80 voluntary mediations each year.²
4. Maintaining accurate records on the rents and services of over 20,000 rental units in the City of Berkeley and processing payments, changes in tenancy and exempt status, and requests for penalty waivers for all units covered by the Ordinance.
5. Guiding policy, transparency and governance: Historically 2-3 FTE are dedicated to providing policy, administrative, legal and logistical support directly for the Board and its committees. The past several years, this has increased somewhat as we address appropriate responses to the housing affordability crisis.

² This number reflects the average number of petitions filed since 2010. Staff has noticed a sharp decrease in the number of petitions filed during the course of the past year.

The vast majority of our resources are dedicated to the multitude of tasks involved in carrying out the five essential “core” areas of work listed above. Providing this great public service is the primary way in which we carry out the purpose and mission of the Ordinance articulated in Section 120 of the City Charter:

“The purpose of this article is to provide for proper administration of programs to regulate residential rents; to protect tenants from unwarranted rent increases and arbitrary, discriminatory or retaliatory eviction; to help maintain the diversity of the Berkeley community; and to ensure compliance with legal obligations relating to the rental of housing.”

In addition to our “core” areas of work, we have produced impressive results in fulfilling the Board’s charge under the City Charter. The Board has continued to work with Council to promote important legislation that directly relates to the work agency staff perform to achieve the goals articulated in both the Charter and Rent Ordinance itself. Over the course of the last several years, the Board has taken a particularly holistic approach to addressing needs associated with community stability and ensuring that the most vulnerable members of the city have access to services that promote safe and decent housing. To that end, the Board has increased contact with both the Council and other City departments in an effort to streamline important services for both landlords and tenants all the while working within the framework of the specific rights and responsibilities established by the Rent Ordinance. Below is a non-exhaustive list of some of the highlights over the past year:

- Addressed significant hearings backlog.
- Replaced Commissioner who unexpectedly resigned.
- Adjusted services due to Covid-19 Pandemic – including remote counseling, registration and remote staff/Board meetings.
- Immediately passed Emergency Regulation 1017.5 allowing landlords and tenants to negotiate rent decreases without them affecting the lawful rent ceiling following the expiration of the COVID-19 State of Emergency.
- Outreach and counseling Eviction Moratorium (BMC 13.110)
- Responded to seven writs of administrative mandate.
- Proposed amendments to Rent Ordinance that will go before Counsel.
- Advised regarding how AB 1482 would affect local landlord/tenant rights.
- Issuing RFPs for RTS Replacement/Scanning Project.
- Internal trainings on Implicit Bias (also created training committee that identified several other important trainings for staff).
- Managed expanded EDC/EBCLC contract scopes.
- Assisted with Measure U1 data collection.
- Proposed and adopted regulation streamlining amendments to various Rent Board Regulations.

Nevertheless, the year has not passed without the agency having to face some rather significant challenges. The current COVID-19 pandemic and accompanying Shelter in Place Orders have necessitated that we immediately pivot to providing virtually all of our services remotely when they previously had been almost exclusively performed in our office. Staff and Commissioners have also had to conduct all meetings using technology that remain somewhat foreign to many of us.

Additionally, several very long-term staff members, including our Executive Director and Senior Legal Secretary, retired rather unexpectedly within the last several months. With their departure, the agency loses valuable institutional memory.

Staff has done a remarkable job responding to both the current health crisis and the departure of senior employees. The Board and landlord/tenant community have come to expect that the agency will deliver high level service in an environment where housing insecurity is ever more a concern. We are well on our way to accomplishing this goal, and our service to the community has not skipped a beat even in the face of unprecedented uncertainty.

Nevertheless, there are several unknown expenses that the Board may incur over the course of the next fiscal year (including allocations associated with confidential personnel matters). Therefore, we think it prudent to submit a proposal that does not expand on the number of employees that currently work for the agency. Our current staff is terrific – each employee is well-trained to deliver quality service with significant evaluative oversight. With no reductions or additions, staff believes we can continue to provide excellent (and essential) service to the community.

Goals and New Initiatives in FY 2020/21

While over the past decade an increasing portion of our efforts have gone into guarding the basic protections of the Rent Stabilization Ordinance, we have still been able to respond to the increased, and unabated, demand for our services. Fortunately, we are allowed to spend the majority of our time and energy pursuing initiatives that improve the overall excellent service our clients deserve and have come to expect. Staff, working with the Budget and Personnel, Outreach and other Board committees, has identified 19 projects that we hope to initiate or continue to implement during the upcoming fiscal year. For various reasons, many of these carry over from previous fiscal years:

- 1) Select and contract with a software vendor to develop a sustainable and comprehensive database solution and have that solution in place by the end of the fiscal year.
- 2) Recruit, select, hire and train a new permanent Executive Director.³
- 3) Recruit, select, hire and train a new Deputy Director.⁴
- 4) Implement additional measures to continue to increase the use of Constant Contact and other forms of e-communication to reach a much larger pool of clients and eventually reduce paper usage.
- 5) Continue work to improve the Demolition Ordinance to reach the appropriate balance of allowing new construction but protecting sitting tenants and mitigating the overall loss of housing affordability.
- 6) Increase proactive media outreach and explore the expanded use of social media as well as the possible production of online workshops and seminars.

³ The agency is currently employs an Acting Executive Director who also the Senior Staff Attorney.

⁴ It is recommended that this recruitment follow the hiring of a permanent Executive Director and that this position be revisited during the mid-year budget review.

- 7) Provide data and other assistance in the implementation of Measure U1.
- 8) Continue to monitor Short-Term Rental Ordinance compliance to prevent the loss of long-term rentals.
- 9) Enhance training for staff and Board members, including a possible retreat.
- 10) Select a vendor to complete the scanning of all property files, and other agency files as appropriate.
- 11) Continue studying and memorializing the impacts of Costa-Hawkins on Berkeley and other cities in the state.
- 12) Complete survey of tenants and begin scoping a study/survey of property owners.
- 13) Implement two-phase project to recreate all Rent Board web content (including PDFs) and transfer to new website CMS and expand integration with the City's public records portal.
- 14) Continue working with local and regional groups to develop a coordinated and effective response to the housing crisis.
- 15) Work with the City to assist Council in adopting and implementing a workable "Fair Chance" and "TOPA" Ordinance.
- 16) Draft and adopt proposed language regarding several important Board regulations.
- 17) Implement security and COVID-19 related improvements to first floor and other cosmetic improvements to second floor.
- 18) Depending on whether it is placed on the ballot by Council and passed by the voters, enhance registration component of the agency to accommodate new duties associated with registration of single-family homes and new construction.

Highlights of the FY 2020/21 Proposed Budget

The proposed FY 2020/2021 Budget (Attachment 3) requests new spending authorization totaling \$5,696,209.⁵ This amount includes \$5,046,108 toward our recurring operational expenses (90% of which is for staff and office rent), \$360,000 in legal expenses, 565,000 for replacing the agency's RTS database, outside IT support and maintenance, document scanning and enhanced training. Total spending may reach \$6,096,209 when we include the \$400,000 previously committed for a sustainable database solution to replace RTS.

Much of the proposed FY 2020/21 line-item budget allocations are very similar to the FY 2019/20 budget. Several projects were left incomplete from last year:

- **\$400,000 - Database Solution** - The Board did a one-time \$20 adjustment to the registration fee in FY 2017/18, with the \$400,000 raised placed in our Capital Reserve and earmarked for finding a sustainable long-term solution to our database needs. Staff issued an RFP in August of 2019 and anticipate having all work completed and paid for

⁵ As has been described in prior communications, funding previously allocated by the Board for a specific purpose (like the \$400,000 set aside for a database solution), but unspent in the current fiscal year, will generally be carried over into the next year. These amounts are tracked independently from and not included in the total of "new" funding being requested for FY 2021.

during the next fiscal year. Any portion of this allocation not spent will revert back to the Capital Reserve.

- **\$65,000 - Scanning of Property Files** - As the Board discussed during last year's budget meetings, it would be beneficial to scan all of the existing property files, and potentially additional files. Staff issued an RFP and will proceed to select a vendor to implement this project and finish it next fiscal year.
- **\$15,000 - Improvement to Security in Our Building** - We have experienced a handful of unpleasant situations with clients exhibiting threatening behavior this past year. In each situation the police were notified and responded. We consulted with safety experts at BPD and have a list of possible improvements that could better ensure staff's safety should threats ever turn to action. We have had preliminary discussions with the building owner, and they are willing to work with us in better securing the space. There may be some additional costs, which would likely be paid from the Building Rent line item. Additionally, we will have to make a series of improvements to protect staff and public during the COVID-19 pandemic.
- **\$30,000 - Enhanced Training** - For the past two years, both the Board and staff have discussed the need for improved training opportunities, including possible retreats. The proposed budget recommends that \$10,000 be allocated on a recurring basis to the Training line item (40-63) for ongoing enhanced training opportunities for staff. An additional one-time allocation of \$20,000 is set aside in the CIP line item for large group seminars on best workplace practices as well as a possible team-building exercise for staff and a Board retreat.
- **Change in Staff Classifications and Elimination of Three Positions** - These proposed changes are described in detail below. If approved, implementing this recommendation would reduce personnel expenditures by around \$450,000 in both salaries and benefits.

Need for Proposed Staffing Changes

The departure of several key staff members has necessitated a change to the staffing model. Also, there were several adjustments to the staffing model that were discussed with the Board prior to the resignation of the former Executive Director. The goal, as always, is to develop a model that will best assure the long-term stability and vibrancy of the services provided by our amazing staff.

We propose the following changes to existing classifications:

1. That we convert the Senior Legal Secretary position to a Legal Secretary position and eliminate one Office Specialist II position. The agency's long-time Senior Legal Secretary retired in February of this year. Staff consulted with the former executive director who determined that this position should be reclassified as a Legal Secretary position. In furtherance of this directive, the Office Specialist II has been operating out of class as a Legal Secretary since March of this year. The proposed staffing model will eventually eliminate the Office Specialist II position and replace it with a permanent Legal Secretary position.

2. That we reestablish use of a Senior Hearing Examiner to increase coordination and oversight of scheduling. The individual will also facilitate administrative processes and the overall Hearings Unit workload. Because the senior classification serves as a “lead” rather than a supervisor, the Executive Director will still be responsible for personnel issues and receiving/researching any complaints about service or impartiality. This was proposed for last fiscal year but was not converted.⁶
3. That we eliminate a Staff Attorney I position and add capacity to contract with outside attorneys for litigation support. At the end of April, one of our Staff Attorney IIs transferred to the City Attorney’s Office – he was primarily responsible for litigation support. The Board was extraordinarily busy last year as we responded to seven writs of administrative mandate which is well more than we generally receive in a normal year. Given the departure of one of the Staff Attorney IIs and that the Senior Staff Attorney has now temporarily transitioned to serve as the Acting Executive Director, there is no need for an entry level attorney, anymore. All attorneys must be working at least at the journey level, as there is less supervision and a requirement that the attorneys work more independently. We believe we will be able to provide the necessary legal support services for the Board with the current structure (one Staff Attorney III/Acting Executive Director and two Staff Attorney IIs) if we are able to secure outside counsel for litigation support on a contract basis when necessary.⁷
4. That we eliminate an Accounting Office Specialist II position. This position was approved by the Board to assist with accounting and payroll, but the agency can manage without this position short-term. Given the City of Berkeley’s current hiring freeze and the likelihood of both a revenue gap and a possible overall reduction in revenue collections related to COVID-19. Immediately prior to the declaration of a State of Emergency, staff began to interview to fill this position and a candidate was initially selected and extended a conditional offer. HR has given clear direction, however, that the recent hiring freeze guidelines state that conditional offers must be approved as an exception before a confirmed offer can be made. Therefore, the Board is not bound to select this candidate and is still able to adjust the staffing model to eliminate the position. We believe it is prudent to eliminate this position for now and then reconsider the need for accounting and payroll assistance during the proposed mid-year budget review.

We think these four proposed changes are essential in not only maintaining, but enhancing the Program’s ability to adapt and respond to the increased level of service the public expects during this extended health and housing affordability crisis, while also ensuring the agency has adequate funding for other priorities. Again, the Board will have a chance to review this and any other positions it wishes to fill if it adopts a mid-year budget review.

⁶ With approval from the Budget & Personell Committee, I have signed an Employee Transaction Form to provide for a pay differential for the current hearing examiner (now operating as a Senior Hearing Examiner).

⁷ With approval from the Budget & Personell Committee, I have signed an Employee Transaction Form to provide for a pay differential for the current Staff Attorney I (now operating as a Staff Attorney II).

Budget Priorities for FY 2020/21

Given the anticipated budget constraints, the Rent Board must set clear priorities for fund allocation and determine what expenditures could deserve reducing the Board's uncommitted reserve below its target level of 8% of the agency's operational budget. The majority of the Rent Board's budget is spent on staffing and other expenditures necessary to provide the core services required to counsel tenants, provide hearings and mediations, register properties, and to administrate and support the agency.

Prioritizing Baseline/Core Agency Services

To continue to provide these services the agency must budget a total of **\$5,096,000** for Fiscal Year 2020/21. The allocations necessary to provide the agency's core services include the following:

Monthly Employee Salaries and Benefits **\$3,987,000** for all positions in the proposed staffing model, excluding the vacant Deputy Director position.

Community Service Providers and Other Professional Service Contracts **\$360,000** for the community service agencies to provide eviction counseling and defense to low-income clients (totaling \$300,000) as well as the contract with our legislative advocate for 60,000.

IT Consultant Services, Hardware Replacement and Citywide Software Licenses **\$130,710** for maintaining the current RTS Database, support for the RTS replacement project, Hardware costs and Citywide software licensing.

Building safety and COVID-19 improvements **\$15,000** for the installation of sneeze guards at public counters and an access control system so that agency staff can control the number and timing of public clients that enter the agency's office space.

Rent Tracking System (RTS) and Case Management Replacement Project

The agency relies on two computer systems to implement the agency's core services. RTS is essential for registration of properties, calculating of rent ceilings, implementing Hearing's Unit decisions, collection of registration fees and penalties. The Rent Board's case management system (also known as RTS2) allows Housing Counselors to input and track data on cases and record client contacts.

These systems are both old, outdated and they reduce agency efficiency since they are separate and incapable of sharing information with each other. The current RTS system also lacks stability, and it has not been able to adapt effectively to the new laws and policies that have been implemented to respond to California's housing crisis. Replacing these systems with a new, improved software solution that can enhance internal efficiencies and streamline procedures is essential to support the agency's core functions moving forward.

The Rent Stabilization Fund (440) currently has a total of \$500,000 in capital reserves, \$400,000 of which was collected in FY 2017/18 to cover the costs of the replacement of the Rent Board's existing Rent Tracking System (RTS). A request for software vendors to submit proposals for RTS replacement went out in August of 2019 and staff previously anticipated implementing a replacement project no later than April of 2020. Unfortunately, this timeline was delayed due

unforeseen circumstances including adapting the agency's core services to the Shelter in Place Order and the need to prioritize efforts related to the City of Berkeley's response to the COVID-19 pandemic.

Despite the delay, replacing RTS remains an immediate priority for the agency, and staff recommends the Board allocate an expenditure of up to \$400,000 to complete this project in Fiscal Year 2020/21.

Status of the 440 Reserve Balance

Historically, the Board has attempted to maintain a "one-to-two-month" uncommitted reserve balance in the Rent Stabilization Fund. The City Auditor's recommendation is that the reserve contain at least two months or 16% of agency's reoccurring operational budget. While the Board has previously chosen to go below this level to contain the size of fee increases, it has maintained its reserve at this level since the end of Fiscal Year 2017/2018. We anticipate we will end this current fiscal year with an uncommitted reserve of over 17%. This is approximately 3% higher than budgeted and is due to unplanned salary savings due to staff turnover, retirements, and ongoing vacant positions leaving the Rent Stabilization Fund (440) with more than a two-month reserve. The Board also has \$500,000 set aside in the Capital Reserve.

On April 30th, the Board agreed to maintain the amount of the registration fee at \$250 for the third straight year and use the existing uncommitted reserve to absorb any shortfalls in initial registration fee collection that may arise due to the rental market's potential reaction to the COVID-19 pandemic and avoid increasing the fee during a time of uncertainty.

The proposed budget also allocates \$400,000 of the capital reserve to complete the RTS replacement project. This \$400,000 was expressly raised and set aside to complete the new database, which we expect to accomplish this year. The Board will have a remaining capital reserve of at least \$100,000. Furthermore, if the data solution realizes any savings, the funds will remain in, and increase, the capital reserve balance.

As mentioned earlier, the proposed budget assumes a somewhat conservative decrease revenue of \$170,000. At this revenue level, expenditures to provide the agency's core services will require deficit spending of around \$246,000. Staff also anticipates a \$300,000 allocation is necessary for outside legal representation related to confidential personnel matters. After factoring for this amount, this leaves the Board with approximately \$366,000 in uncommitted reserve, which is 7% of the reoccurring operational budget.

Additional Proposed Expenditures

Staff proposes to allocate an additional \$235,000 of uncommitted reserve to the following projects.

\$30,000 - Enhanced Training - For the past several years, both the Board and staff have discussed the need for improved training opportunities, including possible retreats. The proposed budget includes a \$10,000 allocation to the Training line item (40-63) for ongoing enhanced training opportunities for staff. An additional one-time allocation of \$20,000 is set aside in the Special Projects line item for both an internal large group training for staff and trainings and team-building exercise for the Board.

\$50,000 – Executive Director Recruitment – The Budget and Personnel Committee recommends hiring an outside recruiter to assist with a more expansive recruitment for the vacant Executive Director position.

\$40,000 – Outside Legal Assistance – Given the Board's lead Staff Attorney is currently serving as the Board's Acting Executive Director Staff the Budget and Personnel Committee recommend allocating money to hire outside legal counsel to assist with responding to writs or any additional legal matters that arise, particularly until a permanent Executive Director is hired.

\$115,000 – Deputy Director Position (6 months) – the Agency has had a vacant Deputy Director for more than 2 years. By necessity staff have adapted and the agency has and can continue to provide its core services without this position. The Budget & Personnel Committee still believe in the importance of this position and propose maintaining it in the staffing model but delay the filling it until after both a permanent Executive Director has been selected and the Board has completed a mid-year budget review.

Staff and the Budget and Personnel Committee also recommend allocating some of the remaining capital reserve for one additional expenditure:

\$65,000 - Scanning of Property Files – staff issued an RFP and received a range of bids for the scanning all the agency's existing property files. While this project was included in this year's budget, staff delayed implementation to ensure the scanning project was done in a manner that is compatible with the RTS replacement. Staff's transition to working remotely and the possibility of future Shelter in Place Orders has added urgency to this project since certain property specific questions cannot be fully addressed without first reviewing records that only exist in the paper file. This would reduce the capital reserve to \$35,000.

Sustainability of FUND 440 Reserve Balance

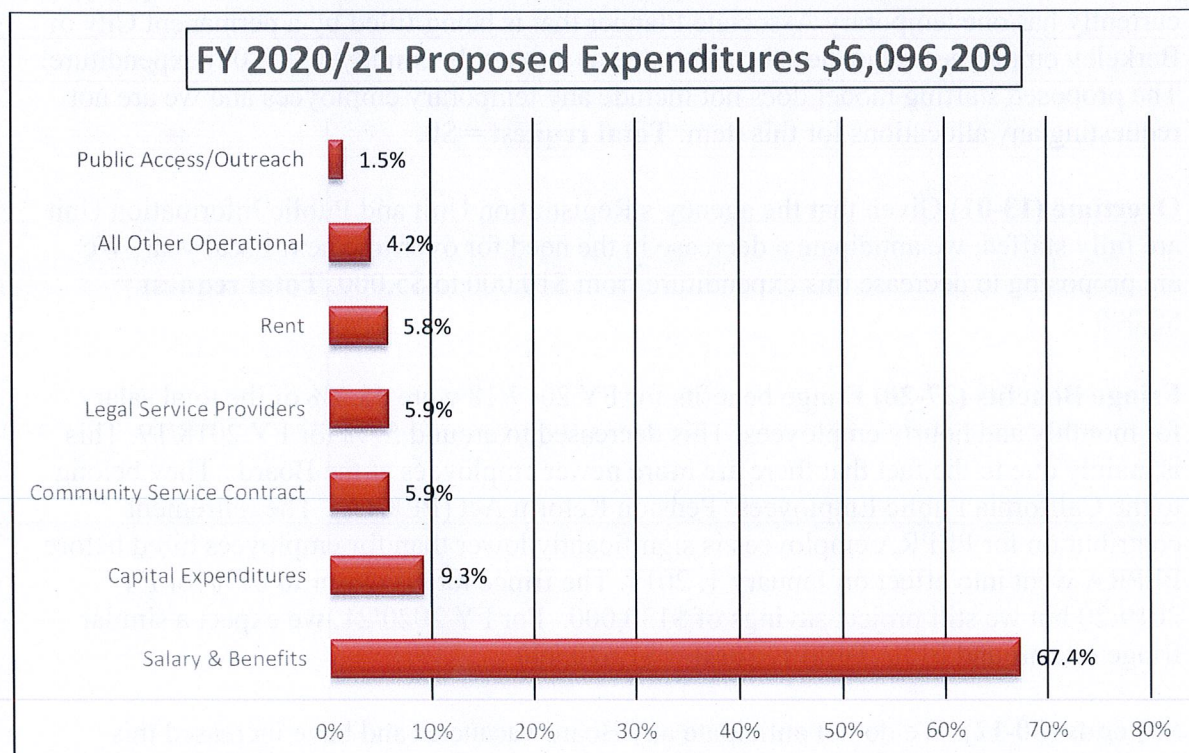
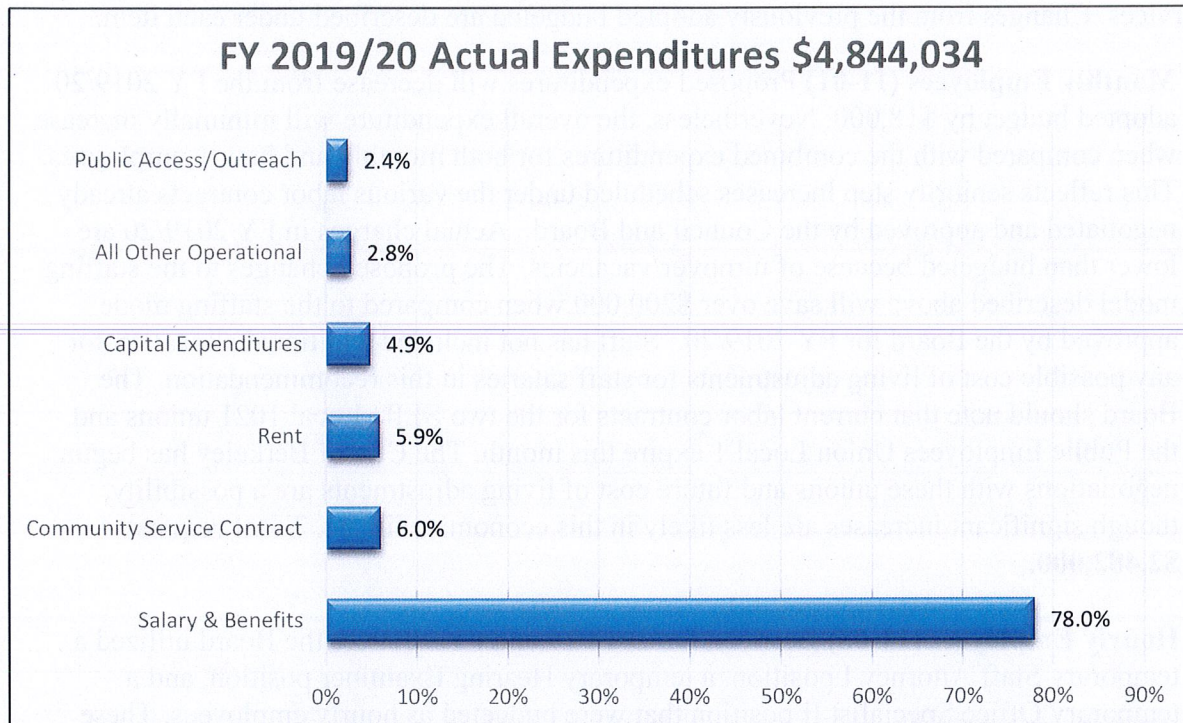
Including the additional expenditures discussed above will leave the Board's uncommitted reserve at \$130,997, or about 2.5% of its reoccurring operational budget. While this is far below the Boards targeted 8% reserve, the Budget & Personnel has asked staff to take a conservative approach and wait before committing to larger capital expenditures until impacts to revenue are known. This will allow time to adjust the budget if revenues come in even lower than anticipated. Staff will work with the committee to create a proposal to replenish the reserve to at least an 8% level during next year's budget process.

This recommendation proposes an 86.5% drawdown of the Board's uncommitted reserve and a 93% drawdown of the Board's capital reserve. Staff does not make this recommendation lightly and believes it represents the best path forward for the agency to continue to provide a high level of service to the public. We think it is in the agency's best interest to utilize the reserve in this manner in order to prevent raising the registration fee during a time of crisis and uncertainty.

The potential impact on the reserve funds further underscores the need for the Board to incorporate a formal mid-year review into the current budget process. The Board will then be able to adjust expectations and service delivery to respond to any outstanding issues which arise over the next six months.

Graphic Overview of Changes in Rent Board Expenditures

The graphics below compare, in broad categories, how the Board budget is allocated in both the current fiscal year and in the proposed budget.



We have provided a line-item explanation for the Board and public below.

Explanation of the Line-Item Budget

The budget proposal primarily focuses on the necessary expenditures to maintain the agency's core services. Changes from the previously adopted budgeted are described under each item.

- **Monthly Employees (11-01)** Proposed expenditures will decrease from the FY 2019/20 adopted budget by \$18,000. Nevertheless, the overall expenditure will minimally increase when compared with the combined expenditures for both monthly and hourly employees. This reflects seniority step increases scheduled under the various labor contracts already negotiated and approved by the Council and Board. Actual charges in FY 2019/20 are lower than budgeted because of turnover/vacancies. The proposed changes to the staffing model described above will save over \$200,000 when compared to the staffing mode approved by the Board for FY 2019/20. Staff has not included additional allocation for any possible cost of living adjustments for staff salaries in this recommendation. The Board should note that current labor contracts for the two SEIU Local 1021 unions and the Public Employees Union Local 1 expire this month. The City of Berkeley has begun negotiations with these unions and future cost of living adjustments are a possibility, though significant increases are less likely in this economic climate. **Total request = \$2,482,000.**
- **Hourly Employees (11-03)** Between FY 2018/19 and FY 2019/20 the Board utilized a temporary Staff Attorney I position, a temporary Hearing Examiner position, and a temporary Office Specialist II position that were budgeted as hourly employees. These positions have since been converted to permanent positions or eliminated. The agency currently has one temporary Associate Planner that is being filled by a permanent City of Berkeley employee and is therefore included as a monthly employee (11-01) expenditure. The proposed staffing model does not include any temporary employees and we are not requesting any allocations for this item. **Total request = \$0.**
- **Overtime (13-01)** Given that the agency's Registration Unit and Public Information Unit are fully staffed, we anticipate a decrease in the need for overtime next fiscal year. We are proposing to decrease this expenditure from \$10,000 to \$5,000. **Total request = \$5,000**
- **Fringe Benefits (27-20)** Fringe benefits for FY 2017/18 were 65.5% of the total salary for monthly and hourly employees. This decreased to around 57% for FY 2018/19. This is mainly due to the fact that there are more newer employees at the Board. They belong to the California Public Employees' Pension Reform Act (PEPRA). The retirement contribution for PEPRA employees is significantly lower than for employees hired before PEPRA went into effect on January 1, 2013. The fringe rate is closer to 61% for FY 2019/20 but we still project savings of \$130,000. For FY 2020/21, we expect a similar fringe rate around 61%. **Total request = \$1,620,000**
- **Stipends (30-12).** We do not anticipate any Board vacancies and have increased this request by \$500. **Total request = \$53,500**

- **Misc. Legal Expenses (30-23)** For most of the past decade, these costs have been limited to \$3,000 - \$4,000 annually for the service of the small claims lawsuits and some incidental court costs. In FY 2019/20 the Board contracted with outside legal counsel and an investigator related to confidential personnel matters. We project the Board will spend around \$130,000 on legal expenses this fiscal year. The Board is going to require additional expenditures in this area in FY 2020/21 and the Committee recommends the Board allocate an additional \$300,000 for these matters (largely related to confidential personnel issues). As mentioned above, we also recommend an allocation of \$40,000 for outside counsel to assist with writs of mandate and related litigation. **Total request = \$360,000**
- **Temp Agency Employees (30-36)** We are not proposing the use of temporary agency employees next year. **Total request = \$0**
- **Misc. Professional Services (30-38)** This line item represents our contracts with community service agencies to provide eviction counseling and defense to low-income clients (totaling \$292,500 in FY 2019/20) as well as the contract with our legislative advocate (\$60,000 in FY 2018/19). This year only the East Bay Community Law Center is proposing increases to their contract. Staff recommends approval and extension of these existing contracts. On June 2nd the Eviction/Section 8/Foreclosure Committee voted to approve proposals for contract extensions for both the East Bay Community Law Center (EBCLC) and the Eviction Defense Center (EDC). All three contracts will be discussed in greater detail at the June 18, 2020 full Board Meeting. The Budget & Personnel Committee has also expressed interest in having an outside recruiter assist with the recruitment for the vacant Executive Director position. This will likely cost approximately \$50,000. **Total request = \$410,000**
- **Office Equip Mtc./Copy Machine (30-42)** This is for the maintenance and servicing of our two copy machines. **Total request = \$13,000**
- **Bldg Structures Mtc. Svc. (30-43)** This line item primarily covers pest control and other minor building maintenance issues not covered in our rental contract with the building owner. Through April, the total FY 2019/20 expenditure has been \$250. Because most years we have averaged between \$300 and \$400 in expenditures, we are not recommending any change next year. **Total request = \$400**
- **Bank Credit Card Fees (30-51)** The Board incurs service fees charged by banks so that owners may pay their registration fees with a credit card. Through the end of March, this item has reached \$25,005, and I'm projecting a total of \$28,000 for FY 2018/19, which is \$2,000 below what was budgeted. For this registration year the Board is going to pay the e-check fees and 1.5% of E-credit card fees (of a total 2.5% fee) in order to provide an additional incentive for owners to pay their registration fees online. Thus far, the number of online registration payments has doubled from 10% to 20% of all registration payments. Given the uncertainty of how these incentives will impact the total number of service fees charged, I am recommending that we allocate \$35,000 for this line item in FY 2019/20. **Total request = \$35,000**

- **Professional Dues and Intern Fees (40-10)** Consistent with City practice, the Program pays for the dues/fees that we require incumbents of a position to hold. The most common are bar dues, but we also may pay for other required dues such as Notary Public Certification dues. This item also reflects charges for Cal in Local Government interns. The amount charged for Cal interns was \$1,500 per intern last year. Due to the approved sabbatical leave for the staff person who coordinates the interns' work last year and the uncertainty caused by the COVID-19 pandemic, we are not going to participate in the Cal in Local Government program for the second year in a row. We are not recommending any changes to the allocation for this line item. **Total request = \$4,000**
- **Telephones (40-31)** Includes charges for mobile devices (cell phones) as well as phones housed in our offices. This also includes charges for wireless connectivity. We estimate FY 2019/20 expenditures will be approximately \$5,000 and do not anticipate this will change in FY 2020/21. **Total request = \$4,200**
- **Printing and Binding (40-50)** Includes charges for the printing of all postcards and newsletters, the annual report, large mailings (like the AGA and ALRC mailings to owners and tenants) and the Guide to Rent Control. FY 2018/19 actual costs are projected to be approximately \$32,000, below the budgeted amount of \$38,000. Staff recommends adjusting the agency's outreach strategy to focus more on electronic and email outreach. The agency has expanded its email list, the agency's email outreach is trackable (we have data on who opens each email), and it is more cost effective. We are proposing to reduce this allocation by \$13,000 and do fewer, more focused mailings. **Total request = \$25,000**
- **Transportation & Commercial Travel (40-61 & previously 40-64)** These line items were combined when the City moved to its new cloud-based financial software system ERMA in October of 2018.
 - **Commercial Travel (40-61)** \$4,000 was set aside in the current budget to pay for or reimburse Program staff for the cost of traveling to Sacramento, Southern California or other similar locations.
 - **Transportation (formerly 40-64)** \$5,000 was set aside in the current budget to reimburse staff for costs incurred while taking either private vehicles or public transit to perform Agency-related duties. The most common expenses are the cost for parking or Bart when going to court to represent the Board and the cost of car rental when at a conference out of town.We request a \$5,000 allocation for both of these line items this year. While the COVID-19 pandemic will curtail some travel at the beginning of the fiscal year, staff recommends having this money available so staff can be reimbursed if the need to travel arises later in the year. **Total request = \$5,000**
- **Meals and Lodging (40-62)** This line item is for the cost of food and/or lodging when on Rent Board business out of town. As we explained for the previous items, there is an uncertainty regarding the exact amount of travel staff will make next fiscal year. We recommend leaving this allocation as it is. **Total request = \$1,000**

- **Training and Registration Fees (40-63)** For the past several years, the majority of the allocation covers MCLE (ongoing legal training) and fees for professional conferences or trainings attended by staff or the Board. Last year, the Board increased the allocation for this item by \$10,000 to accommodate for additional recurring professional trainings of interest to Program staff and Board members, as appropriate. Given that we have come in under budget for the last two years. We recommend reducing the allocation for this item by \$2,000. **Total request = \$12,000**
- **Advertising/Public Access (40-70)** The total amount budgeted for these services in FY 2019/20 is \$45,000. The majority of these costs are associated with making the activities and proceedings of the Board accessible and transparent to the public. Major expenditures include cable coverage on BCM, closed captioning of our meetings, and webcasting of our meetings. Other costs in this category include PTA directory advertisements, Rent Board magnets, the design of newsletters, the publishing of legal notices and attendance at community events. We anticipate reducing expenditures in this category further this year and recommend adjusting this allocation by \$15,000. **Total request = \$30,000**
- **Books and Publications (40-80)** These charges are almost exclusively for legal books or subscriptions for online legal research. This line item also pays for our RealQuest property records subscription. The amount budgeted in FY 2019/20 was \$13,000, and most of this allocation will be spent. We are recommending that we continue with the same allocation for FY 2020/21. **Total request = \$13,000**
- **Rental of Land/Buildings (50-10)** This charge is to cover the costs of renting our office space on Center Street as well as any costs to keep the building open additional “after” hours once a week. In FY 2018/19 we renegotiated the lease and extended the lease term through February 29, 2024. The monthly rent has increased significantly under the current lease. At the beginning of fiscal year 2019 (July 2018) the monthly rent was \$20,423, and it increased to 27,916 as of March 1, 2019. This year our rent will average \$27,218 per month. Program staff has also requested one-time security improvements to our first floor, which are likely to be assessed against our rent bill and there is a need to install sneeze guards in response to COVID-19. I am recommending a total allocation of \$355,000 for this line item to include \$15,000 toward this purpose. **Total request = \$355,000**
- **Postage (51-10)** \$45,000 was budgeted for FY 2019/20, and we project we will underspend this amount by \$10,000 by year-end due to our focus on electronic outreach. This line item covers the costs for all day-to-day operational mailing needs (Hearings and Admin units, VR mailings, exemption verification), all seasonal mailings (registration, ALRC notices), and also the costs for mailing postcards and newsletters to owners and tenants. We anticipate we will send fewer physical mailings next year and recommend that this line item be reduced for FY 2020/21. **Total request = \$25,000**
- **Messenger/Delivery (51-20)** The majority of this line item reflects charges related to the delivery of agenda packages. Due to the continued use of Federal Express to deliver

time-sensitive contract amendments packages, we recommend an allocation for this line item of \$500 for FY 2020/21. **Total request = \$500**

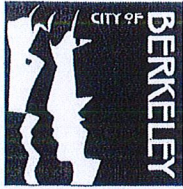
- **Office Supplies (55-11)** We have been able to reduce our expenditures in this line item in each of the past several years after moving toward a paperless agenda system. We recommend maintaining the allocation for this item at \$13,500. **Total request = \$13,500**
- **Food and Water (55-50).** Generally, when the Board has early or contiguous meetings (a closed session leading directly into a Board meeting) some food is provided. However, historically, the largest portion of this expenditure is for drinking water for staff and the public (per a long-standing Board resolution). Food for meetings hosted by the Board or staff are also reflected in this line item. We project we will underspend on this item by \$1,000 this year and we recommend reducing this allocation by \$1,000 for FY 2020/21. **Total request = \$2,000**
- **Office Equipment and Furniture (70-41)** As of March, we spent only \$418 on this item, and we project spending only \$1,000 for the entire FY 2019/20 since staff have been working remotely due to the Shelter in Place Order. Given the potential need to reconfigure office space to better allow for social distancing, we recommend maintaining this allocation at \$5,000. **Total request = \$5,000**
- **Computers, Printer, Software (70-44)** This line item is used for any additional computer or printer purchased, which is not part of the PC Replacement (75-25) below. Given the likelihood that we will require additional laptops to facilitate remote work we recommend this allocation remain at \$10,000. **Total request = \$10,000**
- **PC Replacement Contribution (75-25)** All of our computers have an assumed life span, and they are rotated out at the end of that assumed cycle. We pay a fixed cost into a recurring fund based upon the number of computers we have and the estimated replacement cost. The City's IT Department also provides other hardware, including servers, and we have subscriptions to many citywide software licenses. There have been ongoing negotiations with the City's IT Department on what the Rent Board's recurring IT costs are. At this point we have agreed to pay for clear added costs that the City of Berkeley incurs for our hardware and citywide software licenses used by agency staff. We recommend increasing this amount to \$50,709. **Total request = \$50,709⁸**
- **Mail Services (76-35)** This is a charge from the City, assessed to all departments, to cover the cost of the employee who sorts and delivers the mail. The charge remains unchanged from FY 2019/20. **Total request = \$3,600**
- **City Vehicle / Fuel & Maint. (75-50)** This charge is also from the City, assessed to us for the use of three off-street parking spaces used by Program staff. The charge remains the same for FY 2020/21. **Total request = \$1,500**

⁸ This amount may increase depending on how our discussions with IT and the City Manager evolve.

- **Capital Expenditures** – Capital expenditures for the current year are projected to be around \$80,000 (\$102,500 under budget) by year-end. This is due to delays in making expenditures related to the RTS database replacement project, and the property file scanning project. The agency also never undertook any of the proposed enhanced training, nor did make any of the proposed expenditures related to survey design/research consulting assistance. For FY 2020/21, staff recommends setting aside \$80,000 for IT support for maintenance of the agency's existing software solutions and to support the transition to the system to replace the existing RTS database. Once again, a \$20,000 is recommended for enhanced trainings for both staff and the Board. As described previously, the proposed budget recommends allocating \$400,000 of for the RTS replacement project and \$65,000 for costs related to the both scanning of property files from the agency's capital reserve. Many of these expenditures are for non-recurring costs.
Total request = \$565,000
- **Annual Capital Reserve** – As has been described several times in the preceding pages, we expect to spend up to \$465,000 of the Board's Capital Reserve in order to select and implement a more cost effective and sustainable database solution and to scan the agency's property files. Any amount not spent on these projects will revert to the Capital Reserve for future allocation. The annual capital reserve was created so the Board could set aside an annual amount for future capital expenditures. Given the realities the COVID-19 pandemic economy and its impact on the Boards budget, we do not recommend allocating additional funds to the capital reserve this year. **Total Estimated Cost = \$0.**

Attachments:

1. April 30, 2020 staff report establishing the annual registration fee and pass-through.
2. June 20, 2019 report, Rent Stabilization and Good Cause for Eviction in the 21st Century.
3. Proposed FY 2020/21 Line-Item Budget with historical data for FY 2018/19 & 2019/20.
4. Proposed FY 2020/21 Position Detail sorted by classification only.
5. Proposed FY 2020/21 Position Detail grouped by unit, classification and job duty.
6. Proposed FY 2020/21 Organization Chart sorted by division/supervision.



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: April 30, 2020

TO: Honorable Members of the Rent Stabilization Board

FROM: Matt Brown, Acting Executive Director *MB*
 Lief Bursell, Senior Planner
 Allison Pretto, Senior Management Analyst

SUBJECT: Recommendation to set the Fiscal Year 2020/2021 annual registration fee (due July 1, 2020) and to authorize the pass-through to certain tenants of a portion of the registration fee

Recommendation

That the Board adopt two resolutions concerning the Fiscal Year (FY) 2021 annual registration fee:

Proposed Resolution 20-04 – adopting the annual registration fee, due July 1, 2020, at \$250 per unit. The fee is calculated based on the revenue necessary to cover the costs of recurring operational and capital expenses.

Proposed Resolution 20-05 – authorizes, with proper notice, the pass-through of up to \$10.00 per month to tenants where the tenancy began prior to January 1, 1999. The pass-through may be taken for 12 consecutive months. It cannot begin prior to July 1, 2020, and must terminate no later than December 31, 2021, unless extended by future Board action. The increase shall not result in a pass-through of greater than \$10.00 per month to any tenant. The Resolution also directs staff to continue a program/mechanism that allows low-income tenants with a household income of 50% or less of the Area Median Income (AMI) as calculated by HUD for the Oakland-Fremont, CA HUD FMR Area, or otherwise demonstrating proof of qualification as low-income, to be reimbursed for the pass-through. Funds, totaling \$15,000, for the reimbursement would come from the AEPHI tenant overcharge settlement, which, pursuant to Board Regulation 1271(B), must be used for the benefit of low-income tenants.

Background and Need for Rent Stabilization Board Action

Legally, the Board has through the end of June to adopt a line-item budget and expenditure authorization level for FY 2020/2021. In order to provide enough time to allow staff to print and mail the annual bill prior to the last week of May, however, the Board traditionally sets the fee at a meeting no later than early to mid-May. This year, due to the postponement of the April meeting to April 30th, we recommend the Board either pass the FY 2020/2021 fee at this

meeting or call a special meeting very soon thereafter in early May. Due to the circumstances surrounding the COVID-19 pandemic and subsequent shelter-in-place orders, there have been three last-minute cancellations of scheduled committee meetings. The Budget & Personnel Committee has thus not considered the budget nor had the opportunity to make a recommendation on the FY 2020/2021 fee level. We are informed that there has been some informal discussion regarding the fee, but this report primarily reflects staff's recommendations and not the members of the Budget & Personnel Committee.

Staff recommends that the annual per-unit registration fee for recurring expenses remain unchanged for FY 2020/2021 at **\$250 per unit**. This amount reflects the ability to use the existing uncommitted reserve to absorb any shortfalls in initial registration fee collection that may arise due to the rental market's potential reaction to the COVID-19 pandemic and avoids increasing the fee during a time of uncertainty.

Budget Update FY 2018/19 Fiscal Year-End

When the Board adopted the FY 2019/20 budget last June, we anticipated ending the year with an available Fund balance of \$1,409,053, of which \$909,053 was uncommitted. At the end of FY 2018/19 the Rent Board's Fund had a total balance of \$1,624,196, of which \$1,073,006 was uncommitted. This is because actual revenues exceeded total expenditures by \$407,493, a total of \$215,000 more than we projected. Projections were largely exceeded due to increased savings from staff turnover and ongoing vacant positions. Additionally, staff collected \$21,500 more revenue than anticipated.

Due to these increases the Rent Board Fund started the 2019/20 fiscal year with an *uncommitted* reserve of \$1,073,006 (approximately 20% of the recurring operational budget) in addition to \$500,000 in capital reserves, \$400,000 of which is set aside for the upgrade and/or replacement of the Rent Board's rent tracking database.

Budget Update through February 2020 (2/3 year) and Year-End Projections

The Board's adopted FY 2019/20 budget approved \$810,000 in deficit spending, \$400,000 of which was budgeted for the rent tracking database replacement. Due to additional unanticipated staff vacancies and the likelihood that the Rent Board will not begin the rent tracking database project until FY 2020/21, we are projecting that actual deficit spending will amount to approximately \$167,000. This would leave the uncommitted reserve at \$906,206, a little over 17% of the recurring operational budget, in addition to a capital reserve of \$500,000.

The FY 2019 Year-End & FY 2020 2/3rds year budget update attached to this report provides both the final numbers for FY 2018/19 and line by line year-end projections for the current fiscal year.

Balancing Available Reserve Against Economic Uncertainty in FY 2020/21

For several years, the Board has been committed to a strategy of increasing the registration fee in a "pay as you go" manner, raising it enough to meet budget commitments outlined for the upcoming fiscal year, while at the same time endeavoring to maintain a reserve of approximately 5%-8% of the operating budget. This strategy was adopted largely in response to property

owners' stated desire to accommodate operational inflation in smaller, real-time adjustments and avoiding exceptionally large registration fee increases in any given year.

At present time, however, the Board finds itself in an extraordinary environment as it looks ahead to the 2020/2021 fiscal year. The global pandemic and resulting widescale economic shutdown caused by the spread of the novel coronavirus COVID-19 has cast the collection of registration fee revenue in a new and significant light. An ongoing shelter-in-place order has negatively affected the entire U.S. economy – in almost every sector, and at every level. As a result, we recommend that the Board take a very judicious approach to the projected 17% uncommitted surplus and place it in careful context when considering the registration fee for the upcoming year.

The recommendation to adopt the fee at \$250 reflects this careful consideration. In a year not marked by extraordinary economic stress, the Board might have continued with its recent history of adopting the fee at a “pay as you go level” because an argument could be made that the fee should be increased to reflect additional operational costs, and operational expenses are likely to increase year over year.

The current economic environment, however, is in a state of historic downturn. As a result, tenants financially impacted by the crisis have received a temporary reprieve from paying rent during the months of April and May. Furthermore, evictions for non-payment of rent have been halted locally. This may have a significant financial impact on Berkeley landlords right at a time when they are expected to pay registration fees. Thus, there exists a unique need to balance the needs of the agency against the financial pressure that Berkeley property owners are likely to feel in upcoming months, especially if they have experienced unexpected shortfalls in rent revenue for April and May. To be clear, staff is not suggesting that the Board adopt any adjustments to the fee for landlords who do not pay on time as required by the Ordinance (BMC 13.76.080).

The existing surplus in the current year can provide the opportunity to absorb possible shortfalls in the initial collection of registration fees as a result of the economic stress experienced throughout the region. In effect, the adoption of the fee at the recommended level allows the agency to balance a healthy surplus against possibly reduced registration fee revenue – at least in the short term.

The proposal to offset savings to meet urgent and immediate needs is a financially sound one, especially when placing it in the context of the City of Berkeley's policy regarding reserve balances. The Board adopted a budget for the FY 2019/2020 year with a projected reserve of 13.6% of the agency's reoccurring operational budget. We anticipate ending this fiscal year with a 17% reserve, which is slightly more than the 16% reserve level identified by the City Auditor as ideal. While the City has set 16% as a reserve target, the Board has felt comfortable maintaining a smaller available balance. Having achieved such a healthy surplus, the agency is in a very financially sound position to draw down just enough to meet staffing needs and absorb a potential short-term revenue gap. A careful balancing act is warranted to utilize just enough of the surplus in the upcoming year to allow the Agency to meet its staffing needs while also maintaining sufficient funding to ensure that future fee increases can be kept to the usual “pay as you go” rates.

The attached Resolution (20-04) reflects the goal to maintain a Rent Board Fund reserve balance

of at least 8% as has been the Board's historical practice. Resolution 20-04 also directs that the formal line-item budget and staffing model be presented and discussed in June and adopted prior to June 30th. Over the next month, staff and the Budget and Personnel Committee will craft a comprehensive expenditure proposal based on assumed recurring revenues of approximately \$5,100,000 for FY 2021, a target of maintaining at least an 8% reserve, and limiting recurring spending to an amount that best meets those targets. Board members and Committees are encouraged to submit any requests or suggestions for next year's budget over the next two weeks so that they may be reviewed by staff and the Budget and Personnel Committee.

The Board has traditionally requested analysis of the impact of fee-based revenue when compared to increasing rents and changes in the Consumer Price Index (CPI) since 2009. May 2009 was selected as a comparison because the Board went several years without increasing the fees before making adjustments in four consecutive years between 2015 and 2018. Thus, in each of the past several years the Board, in addition to looking at necessary costs for operating the program, has analyzed comparative impacts on those paying the fee.

The table below shows the registration fee as a percentage of rent, which is probably the most relevant measure of the impact of any fee. The shaded area reflects a pre-vacancy decontrol program, while 1998 was a transition year from full rent control to decontrol. If the Board maintains the fee at \$250, it will be the lowest percentage of the average (mean) annual rent since the voters began electing Board members in 1984.

Fees as a percentage of rent			
Year	Fee	Mean Monthly Rent	% Annual Rent
1984	\$60	\$267	1.87%
1987	\$80	\$293	2.28%
1989	\$100	\$328	2.54%
1991	\$136	\$361	3.14%
1998	\$112	\$720	1.30%
2000	\$124	\$865	1.19%
2005	\$154	\$1,062	1.21%
2010	\$194	\$1,274	1.27%
2014	\$194	\$1,498	1.08%
2015	\$213	\$1,606	1.11%
2016	\$234	\$1,637	1.12%
2017	\$270	\$1,710	1.32%
2018	\$250	\$1,816	1.15%
2019	\$250	\$1,956	1.07%
2020	\$250	\$2,039	1.02%

Pass-through of Increase in Registration Fee to Tenants

In 2003, the BPOA proposed changing the way the Annual General Adjustment (AGA) was calculated, shifting from a pass-through of actual cost increases to a flat formula based on a

percentage of the CPI.

The Board approved of this formula, and in 2004, the voters approved of this change in how the AGA was calculated. Prior to the change in the AGA methodology, all increases in the registration fee between 1980 and 2005 were taken into consideration and incorporated in the Annual General Adjustment of rents.

Since the adoption of statewide vacancy decontrol in the late 1990s, rent levels have been set using two different standards. Under vacancy decontrol, owners are expected to take into account past and anticipated future operating cost increases when setting the initial rent for a new tenancy. Therefore, under the stated logic of vacancy decontrol, increases to the registration fee presumably have been factored into the rent charged a new tenant. Approximately 90% of the units have experienced at least one decontrol event since 1999. The Board has been extremely careful to guarantee that owners of the 10% of units never decontrolled continue to receive compensation for actual increased costs, such as adjustments to the registration fee. Since 2004, the Board has found that it would be fair and equitable, in view of the purposes of the Ordinance, to pass along to tenants a part or all of the increase in fees as a temporary adjustment of rent ceilings.

For several years, the Board approved a pass-through of up to \$4.00 per month to tenants where the tenancy began prior to January 1, 1999. In 2015, with the \$19-per-year increase in the registration fee, the amount of the pass-through was increased by \$2.00 per month for a new total pass-through of \$6.00 per month. In 2016, when the fee was raised by \$18, an additional \$2.00 per month was added, raising the monthly pass-through to \$8.00 per unit. In 2017, when the fee was increased by \$36, the pass-through was increased by an additional \$3.00 per unit, bringing the total monthly pass-through to \$11 per unit. Two years ago, the fee was lowered to \$10 per month to reflect the \$20-per-year decrease to the registration fee and it remained at that level last year. This year, if the fee is maintained at the proposed \$250 per unit, the staff believes it is appropriate to maintain the pass-through at \$10 a month. The proposed pass-through may be taken for 12 consecutive months and cannot begin prior to July 1, 2020, and must terminate no later than December 31, 2021, unless extended by future Board action. The change shall not result in a pass-through of greater than \$10.00 per month to any tenant. The pass-through must be on a form provided by the Board or use language provided by the Director, and a copy must be filed with the Program.

Mitigation of Impact of Pass-through for Low-Income Tenants

The last time the fee was increased, the Board discussed the impact that the pass-through of the fee could have on tenants on a fixed income, especially following the ongoing cuts in several state and federal programs assisting those most vulnerable in our society. Consequently, the Board adopted a resolution directing staff to develop a mechanism that allows low-income tenants with a household income of 40% or less of the Area Median Income (AMI) to be reimbursed for the pass-through. Funds for the reimbursement came from the AEPHI settlement. Pursuant to Board Regulation 1271(B), in the event of overcharges from a case in which a tenant has not claimed reimbursement within a year, the Board may designate a program of the City of Berkeley that benefits low- and/or moderate-income tenants. Because the AEPHI settlement was

entirely from overcharges to tenants and did not include any registration fee, the Board elected to use this as a source to fund the mitigation of the pass-through. Since 2010, over 600 low-income individuals have taken advantage of this program and utilized around \$120,000 of the AEPHI Fund balance. As the fees have increased, we have noticed two trends: More owners are taking the pass-through and more low-income tenants are requesting reimbursement. The table below, lists the totals from each of the past several years:

Year	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
Registration Fee Charged (amount of pass-through)	\$194 (\$4 per month)	\$213 (\$6 per month)	\$234 (\$8 per month)	\$270 (\$11 per month)	\$250 (\$10 per month)	\$250 (\$10 per month)
Number of Notices Property Owners Sent to Tenants	376	404	486	595	601	678 (YTD)
Number of Qualified Tenants Requesting Reimbursement	26	55	75	101	110	113 (YTD)

Therefore, if the Board wishes to continue this mitigation, it will need to authorize an additional allocation from the AEPHI settlement account, which currently contains approximately \$76,000. The original \$18,000 allocation for the pass-through reimbursement program lasted over six years. This year, the Program will spend roughly \$17,500 in additional allocation for reimbursements. Given the number of requests the Program has received so far in Fiscal Year 2019/20, staff estimate that that an additional allocation of \$15,000 may be needed for FY 2020/2021. The Board reviews the continuation of the reimbursement program each year, and if it chooses to continue the program, it may make additional allocations in future years.

In 2010, the Board also discussed the appropriate income level to qualify for the reimbursement program. Under federal guidelines, 50% of area median income (AMI) is considered "Very Low Income." Previously, 30% of AMI was considered "Extremely Low Income", but that definition has since been changed to be the greater of 30/50ths (60 percent) of the Section 8 very low-income limit. To our knowledge, there is no unique designation for 40% of the AMI. The household income by size of household for 30%, 40% and 50% of the AMI for Alameda County is listed below. According to HUD guidelines, the 2020 area median income for a household in Alameda County is \$119,200. The table below lists income standards for 1-8 person households

calculated at 30%, 40% and 50% of the AMI, rounded to the nearest \$50 per HUD's practice.

Income Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
30% AMI	\$27,450	\$31,350	\$35,250	\$39,150	\$42,300	\$45,450	\$48,550	\$51,700
40% AMI	\$33,400	\$38,150	\$42,950	\$47,700	\$51,500	\$55,350	\$59,150	\$62,950
50% AMI	\$41,700	\$47,700	\$53,650	\$59,600	\$64,350	\$69,150	\$73,900	\$78,650

In calculating the 50% AMI "Very Low Income" limit, HUD also includes "High Housing Cost Adjustment" for the Oakland-Fremont CA HUD Metro FMR Area. This increases the base 50% AMI income limit category for a family of four by \$5,650 or 9.5%.

HUD Income Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
50% AMI	\$45,700	\$52,200	\$58,750	\$65,250	\$70,500	\$75,700	\$80,950	\$86,150

In previous years, the Board established a standard that allows low-income tenants with a household income of 40% or less of the AMI to be reimbursed for the pass-through and it was not until FY 2018/19 the Board set the qualifying income at the higher 50% AMI level. Last year, Staff and the Budget and Personnel Committee recommend that the mitigation pass-through for low-income tenants be adopted to match the HUD's higher 50% AMI or "Very Low Income" limit, including the "High Housing Cost Adjustment" and to continue to allow individuals to demonstrate proof of qualification for reimbursement if they already have been determined eligible for another similar state or federal program, including but not limited to CalWorks, CalFresh, Medi-Cal, WIC or another program approved by the Executive Director. Staff recommend the mitigation pass-through for low-income tenants be adopted with this standard again for the upcoming fiscal year.

Last year, the Budget and Personnel Committee also recommended that reimbursement for the pass-through be limited to the current registration year, and staff recommend this limitation remain for FY 2020/21.

To date, the AEPHI settlement account balance has declined to just over \$76,000, which is more than enough to continue the pass-through reimbursement program for the next several years. Nevertheless, in the future, the Board may wish to consider policy changes to lengthen the life of the program; possibilities to accomplish this include a change to the funding source or lowering either the pass-through amount or adjusting the income qualifications.

Name and Telephone Number of Contact Person

Matt Brown, Acting Executive Director (510) 981-4905

Rent Stabilization Program
FUND 440
FY 2019 Year-End & FY 2020 2/3rds-Year Budget Update

Code	Description	Adopted FY2019	Actual FY2019	Adopted FY2020	YTD 2/3rds FY 2020	Projected Year-End FY 2020
11-01	Monthly Employees	2,430,000	2,185,910	2,500,000	1,471,508	2,330,000
11-03	Hourly Employees	10,000	149,612	200,000	159,216	160,000
13-01	Overtime	1,000	13,668	10,000	270	5,000
27-20	Benefits	1,525,000	1,429,066	1,650,000	977,607	1,560,000
30-12	Stipends	53,500	53,200	53,000	33,350	51,300
30-23	Misc. Legal Expenses	4,000	5,216	7,500	4,857	130,000
30-36	Temp. Agency Employees	1,000	448	1,000	0	1,000
30-38	Misc. Professional Services	337,500	291,375	352,500	195,000	353,000
30-42	Office Equip. Mtc. Svcs. / Furniture	14,000	2,704	13,000	6,876	13,000
30-43	Bldg. & Structures Mtc. Svc.	400	237	400	250	400
30-51	Bank Credit Card Charges	30,000	25,634	35,000	17,252	25,000
40-10	Professional Dues & Intern Fees	6,000	6,267	4,000	2,779	3,000
40-31	Telephones	5,000	3,619	4,200	3,661	5,000
40-50	Printing and Binding	38,000	20,293	38,000	25,264	32,000
40-62	Meals & Lodging	1,000	706	4,000	0	1,000
40-63	Registration Fees	3,600	2,250	1,000	0	1,000
40-61/64	Transportation & Commercial Travel	4,000	2,424	14,000	603	1,500
40-70	Advertising/public access	50,000	40,331	45,000	33,248	50,000
40-80	Books & Publications	13,000	13,745	13,000	7,456	13,000
50-10	Rental of Land / Buildings	280,000	285,311	340,000	258,441	341,000
51-10	Postage	42,000	43,761	45,000	18,419	35,000
51-20	Messenger / Delivery	400	520	800	201	500
55-11	Office Supplies	15,000	10,438	13,500	10,237	12,500
55-50	Food and Water	3,000	2,139	3,000	647	3,000
70-43	Office Equipment and Furniture	5,000	1,847	5,000	418	5,000
70-44	Computers, Printers, Software	2,500	4,564	10,000	2,207	10,000
75-25	PC Replacement Contribution	9,500	9,500	9,500	0	9,500
75-35	Mail Services	3,600	3,600	3,600	2,400	3,600
75-50	City Vehicle / Fuel & Maint.	1,500	1,500	1,500	1,500	1,500
	Expenditure Subtotal**	4,889,500	4,608,188	5,377,500	3,233,667	5,156,800
	Special Projects (RTS Upgrade, online registration, training)	182,500	235,846	182,500	30,090	160,000
	Annual Capital Reserve	100,000	0	400,000	0	0
	Total Authorized Fund Expenditures*	5,172,000	4,844,034	5,960,000	3,263,757	5,316,800
	Total Authorized Fund Revenue*	5,100,000	5,251,527	5,150,000	4,980,920	5,150,000
	Annual Surplus/Shortfall	(72,000)	407,493	(810,000)	1,717,163	(166,800)
	<i>Previous FY Carryover Expenditures</i>		51,190		51,190	51,190
	FUND BALANCE (cash basis)		1,624,196	814,196	3,290,169	1,406,206
	FUND BALANCE (accrual basis)		1,573,006	814,196	3,290,169	1,406,206
	TOTAL UNCOMMITTED OPERATIONAL FUND BALANCE		1,073,006	714,196		906,206

* Note: this report only reflects charges & revenues against the Rent Board Fund (Fund 440) and does not include services charged to or received from other funds

** Note: variance in actual expenditures and total fund balance reflects remaining balance in reimbursement offset escrow



Rent Stabilization Board

RENT STABILIZATION BOARD

DATE: June 20, 2019

TO: Honorable Members of the Rent Stabilization Board

FROM: Jay Kelekian, Executive Director

SUBJECT: Rent Stabilization and Good Cause for Eviction in the 21st Century

During the FY 2012/2013 budget process, Board members indicated that while they had a good understanding of the Board's finances, they and the public would benefit from a greater understanding of the ongoing and ever evolving work performed by the Rent Stabilization Program staff. The Budget and Personnel Committee agreed and asked that staff put together a report with some historical context on the work of the agency. For the past several years we have updated the document and included it as background information for the Board and public when reviewing our budget and program.

This report, which was originally prepared in 2012, describes how the Berkeley Rent Stabilization Board has adapted to the passage of vacancy decontrol and how it is working to ensure continued and effective enforcement of rent regulations and good cause for eviction in the 21st century. It provides a historical perspective that illuminates the major administrative and staffing changes we have carried out over the years. While I have updated portions of the report, the core remains relatively unchanged. The citizens of Berkeley established our agency and its mission in 1980 and have reaffirmed it many times over the succeeding years. Although conditions have changed around us we can say with pride that we have adapted to those changes and continue to provide effective and efficient administration of the Ordinance.

We hope that this report will help provide the Board and public with a good understanding, not just of what we do now, but also how our work has evolved over the years and what we hope and expect to do in the near future.



Rent Stabilization Board

RENT STABILIZATION AND EVICTION FOR GOOD CAUSE IN THE 21ST CENTURY

June 20, 2019

Introduction

This report explains how Berkeley Rent Stabilization Board has adapted to the passage of vacancy decontrol and is working to ensure continued and effective enforcement of rent regulations and good cause for eviction in the 21st Century.

Section One reviews the purposes of the Rent Board and the scope of the Board's mandate, which is to implement an ordinance designed to help level the playing field and ensure fair treatment for both landlords and tenants in a region where tenants, who are mostly low-income, have little market power.

Section Two compares the strong, active enforcement approach utilized by Berkeley, West Hollywood and Santa Monica with the more passive, complaint-driven enforcement approach utilized by Oakland, San Francisco and until very recently Los Angeles, and shows that Berkeley's active enforcement is both more effective and more costly than complaint-driven programs.

Section Three describes the administrative structure of the Rent Stabilization Program and its relationship with other City departments.

Section Four gives an historical overview of changes in the Program's budget, fees and staffing from its inception to the present day, showing how staffing gradually declined as a result of vacancy decontrol and then stabilized in response to increased demands resulting from changes in the program environment, most notably the current affordable housing crisis.

Section Five describes the effort underway for the past several years to reorient Program activities to better meet the evolving needs of tenants and property owners under current conditions. These include a stronger emphasis on educating property owners and tenants about good cause for eviction, a greater emphasis on dispute resolution, strengthened interdepartmental

coordination and improved administrative capacity and use of modern information technology. All of these efforts have received broad public support. All of these changes have been implemented at a time when demand for our services are at an all-time high.

I. Purposes and Scope of the Berkeley Rent Stabilization Program

The Berkeley Rent Stabilization Program implements the Rent Stabilization and Eviction for Good Cause Ordinance passed by the voters in June 1980 and is governed under Article 17 of the Berkeley City Charter, “Elected Rent Stabilization Board”, passed by voter initiative in November 1982. The Ordinance (Berkeley Municipal Code Section 13.76) states:

“The purposes of this chapter are to regulate residential rent increases in the city of Berkeley and to protect tenants from unwarranted rent increases and arbitrary, discriminatory, or retaliatory evictions, in order to help maintain the diversity of the Berkeley community and to ensure compliance with legal obligations relating to the rental of housing. This legislation is designed to address the City of Berkeley's housing crisis, preserve the public peace, health and safety, and advance the housing policies of the city with regard to low and fixed income persons, minorities, students, handicapped, and the aged.”

The Rent Stabilization and Eviction for Good Cause Ordinance responds to a severe and longstanding housing market failure in Berkeley and in the surrounding Bay Area. In a genuinely competitive market with adequate supply that increases as demand increases, competition would hold rents down to the minimum necessary to cover the costs of operating and maintaining housing and providing a modest profit. Instead, for the past forty years Bay Area rents have been based on scarcity in a market where supply has failed to increase with demand, making them among the highest rents in the United States. Under such circumstances, tenants are easily taken advantage of unless protected by strong and effective regulation.

The Ordinance also falls within Berkeley’s tradition of demanding equal rights for all, providing tenants in good standing with a level of security in their homes that is nearly equivalent to that available to homeowners with fixed-rate mortgages. Berkeley’s voters have affirmed their continuing support for rent stabilization and eviction for good cause many times over the years, for example by strengthening the limits on owner move-in evictions in 2000 and adopting additional amendments proposed by the elected Rent Board in 2004,, with the passage of Measure AA in November 2016, and, most recently, with the passage of Measure Q in November 2018.

Berkeley’s current system of rent regulation can best be described as “vacancy decontrol – recontrol”. In 1980 the voters established a strong form of rent regulation called “vacancy control”, which set base rents and allowed increases without regard for changes in tenancy. In 1995 the state legislature overrode the will of the voters of Berkeley and passed the Costa Hawkins Act, which allows the landlord to set the initial rent of a new tenancy, a system called

“vacancy decontrol”. Once the unit is re-rented it is again controlled for the duration of the tenancy, with limits set on future increases in order to provide stability and security to the new tenant. Vacancy decontrol began on January 1, 1999 after a three-year phase-in period.

The good cause for eviction provisions of the ordinance govern nearly the entirety of the approximately 27,000 rental units in Berkeley, while the rent stabilization provisions apply to approximately 21,000 units in multi-family properties built before 1980. About 19,000 of these units are required to register at any given time and the other 2,000 units are temporarily exempt. The most common reason for temporary exemption is that the unit is rented to a tenant who participates in either the Section 8 Portable Voucher or Shelter Plus Care programs. Permanently exempt units include those built after 1980 and most single-family and condominium units.

The Berkeley Rent Board is now responsible for administering rent regulations for two parallel sets of tenancies: “old rent control” tenancies in units that have never received a vacancy increase and newer tenancies in units that have had a vacancy increase bringing the unit to market rent. At this point slightly more than 88% of stabilized units have turned over at least once since January 1, 1999 and have tenancies that began at market rent under the vacancy decontrol – recontrol rules.

Approximately 2,000 households have tenancies that began prior to January 1, 1999 and most of these have rents that are based on the original (usually 1980) base rent plus allowable annual and individual rent adjustments. There are also a small number of units within this group that received additional increases during the 1996 – 98 phase-in period. The rent ceilings for these long-term rent-controlled tenants are usually from 60% - 75% below the current market rent. According to the Rent Board’s 2009 tenant survey, the great majority of the tenants who fall under “old rent control” are low-income and 37% of these households include a resident who is disabled, elderly or both. Even with rents substantially below the current market rate, 42% were paying over 30% of their income for rent and the majority would be hard put to afford other housing in Berkeley. (For more details, see Berkeley Rent Stabilization Board, *Report on the April – May 2009 Survey of Tenants of Registered Rental Units*, March 15, 2010, available on the Rent Board web site under Research Reports.)

By way of comparison with other housing programs, the Berkeley Housing Authority assists just over 1,900 tenants with Section 8 vouchers or certificates and the City’s non-profit housing organizations have, over the past forty years, developed an inventory of about the same number of units of subsidized housing (with about 300 units that fall in both groups) for a total of about 3,500 assisted households. Meanwhile, taking both old and new tenancies, Berkeley has more than 8,000 low-income **non-student** tenants living in the private rental housing market who are provided with protection and stability by the Rent Stabilization and Eviction for Good Cause Ordinance. In addition, thousands of students and middle-income tenants also benefit from clear rules, a more level playing field between landlords and tenants, and a place to go for advice and to resolve disputes.

The Rent Board has an important role in monitoring evictions as well as rents. Although evictions are carried out through the courts, the Rent Board is notified of all eviction actions and monitors them to ensure that they involve valid causes for eviction and to ensure that vacancy increases are not granted in cases that fall under the exceptions in the Costa Hawkins Act. The Board also administers the requirements of both the state Ellis Act, for owners evicting their tenants to go out of the rental business, and the corresponding local Ellis Ordinance, which provides a timeline and relocation payments to any tenants.

Eviction monitoring is particularly important for units occupied by long-term tenants, since vacancy decontrol can create a major economic incentive to vacate such units and restart the rent at current market levels. The Rent Board's 2010 economic study demonstrated that, as a result of vacancy decontrol and the continued high demand for rental units in Berkeley, most landlords have received major increases in rents. Since 2010, market rents have increased by over 75%. On an annual basis 2010 rents in Berkeley were more than \$100 million higher than they would have been if vacancy control had remained in place or if rents at the beginning of rent control had simply increased at no more than the rate of inflation, as they would have in a more competitive housing market. This amount has increased substantially since 2010 and we hope to have updated figures available within the next year. This additional \$100 million in annual rental income, virtually all of which goes into net operating income, has increased the value of Berkeley's rental properties by over one billion dollars. However, to date, it has not increased Berkeley's tax revenues by very much, since most rental properties have not turned over since vacancy decontrol and they retain the much lower property tax rates mandated by Proposition 13. (For more details, see Berkeley Rent Stabilization Board, *The Effects of Rent Stabilization and Vacancy Decontrol on Rents, Rental Property Values and Rent Burdens in Berkeley, California*, April 19, 2010, available on the Rent Board web site under Research Reports.) The tax rates for most rental properties have not been adjusted to reflect the current actual value. However, Berkeley voters recently overwhelmingly approved Measure U1 which more than doubles the business license tax for decontrolled units of larger owners. The funding generated from this tax increase goes to programs designed to increase affordable housing and protect Berkeley residents from homelessness.

II. The Value of a Strong Regulatory System

Broadly speaking, there are two models of how to approach regulation of the landlord-tenant relationship; passive enforcement and active enforcement. The passive enforcement approach makes information available but does not collect systematic information regarding current rents and enforces regulations only in response to complaints, which usually find their way to the regulatory agency only in egregious cases or where tenants have contact with an advocacy organization. The active enforcement approach uses extensive outreach to inform tenants and owners about their rights and obligations under the law and regulations, maintains full and

accurate records through reporting requirements for initial rents and eviction proceedings, ensures information provided by owners is also sent to current tenants for review, provides mediation and dispute resolution services and actively enforces the law and program regulations when it finds violations.

Berkeley is a city whose voters demand active enforcement. The Berkeley Rent Stabilization Program has 22.35 career employees and an adopted budget for the 2018/2019 fiscal year of \$51,172,000,000, (revenues of \$51,000,000) mostly from annual registration fees of \$250 per unit. Santa Monica, another high enforcement city, has an adopted 2018/2019 budget of \$5,241,630, mostly from registration fees of \$198 per unit. Its 25 employees oversee 26,335 rent stabilized units.

By way of contrast, the City of Los Angeles, until very recently, operated a rent stabilization program with lower-level enforcement. Its ordinance applies to approximately 450,000 units, which are overseen by a staff of approximately 80 employees. An annual registration fee of \$24.51 per unit generates most of the Program's –approximately \$14,500,000 in annual revenue for FY 2018/19. Similarly, the Oakland Residential Rent Adjustment Program, which historically has taken a lower-level enforcement approach, has responsibility for regulating approximately 58,000 units with a staff of 11 in-house employees and FY 2018/19 budgeted revenue of \$2,950,000 from a per unit fee of \$30. The City of Oakland, along with the Cities of Richmond and San Jose, are proposing expansions of their programs and these numbers will look significantly different for FY 2019/2020. Similar to Los Angeles, both Richmond and San Jose have amended their ordinance to require the registration of rental units. It is important to note that for both Los Angeles and Oakland, in-kind support from other departments (City Attorney, Codes, IT, etc) are not included in the staffing or cost figures above. The differences in information outreach, rent registration and enforcement generate measurable differences in results. The City of Los Angeles' survey of tenants in 2007-2008 and found that 27% of tenants reported current rents that were more than 105% of what they should have been based on the tenants' initial rent and the increases allowed under the L.A. rent stabilization ordinance.

(Economic Roundtable, *Economic Study of the Rent Stabilization Ordinance (RSO) and the Los Angeles Housing Market*, 2009, available at the L.A. Housing Department web site). By contrast, a 2009 survey of tenants in Berkeley found that 7% of pre-1999 tenants and 5% of tenants who moved in after 1998 reported a rent that was over 105% of the legal rent ceiling. (Berkeley Rent Stabilization Board, *Report on the April – May 2009 Survey of Tenants of Registered Rental Units*, March 15, 2010, available on the Berkeley Rent Stabilization Program web site). The Berkeley survey overstates the overpayment rate because it did not try to take into account legal “separate agreement” payments, such as for parking or storage space, which tenants may have considered part of the rent. Even so, it is clear that rent violations are quite rare in Berkeley and fairly common in Los Angeles. This is certainly related to the fact that Berkeley requires landlords to report the initial rent for all new tenancies and mails out an annual statement to all

tenants with their legal rent ceiling. In contrast, Los Angeles did not require rent reporting until January 2017 when the City Council voted to begin the practice.

The Los Angeles study also found that 37% of tenants in stabilized units did not know that their rents were regulated. The Berkeley study found that 27% of tenants in stabilized units did not know, although only 3% of long-term Berkeley tenants did not report knowing that their rent was controlled. This reflects the particular challenge that Berkeley has in reaching the high-turnover student sector within its tenant population. After receiving the results of the survey, Berkeley has taken several measures to improve its outreach to college students.

The Los Angeles ordinance has been the subject of major ongoing controversy and protests from tenants because its provisions allow landlords a minimum annual increase of 3% on sitting tenants, while over the past several years the rate of inflation has been much less than that. In contrast, Berkeley's ordinance does not allow a minimum annual increase if there is no inflation.

It is not a coincidence that the high-enforcement cities in California were originally cities with strong vacancy-control rent regulations, while the low-enforcement cities always allowed decontrol on vacancy. Vacancy control systems had to track the legal rent for each unit, and could easily continue the practice after the state mandated vacancy decontrol. In addition, since Berkeley has a database with the addresses of all rent stabilized units, it is able to send regular mailings to all landlords and tenants informing them of their rights and obligations under the law. It is worth noting that to better respond to the housing crisis, Los Angeles, Oakland, and several other cities that have had a passive enforcement approach to implementing their ordinances are already in the process of converting to an active enforcement system.

III. Structure of the Rent Stabilization Program

The elected Rent Stabilization Board hires the Executive Director, who hires all other staff and manages the Program. The Rent Stabilization Program budget for the 2018/2019 fiscal year, adopted last June, budgeted for 22.35 full-time equivalent staff (FTE) divided into four units: Registration and Public Information (10.85 FTE), Hearings (2.00 FTE), Legal (3.55 FTE) and Administration/Policy (5.95 FTE). (Minor changes are made throughout the year. The numbers used in this report always refer to the initial adopted budget unless otherwise specified.)

The **Registration unit** handles the annual payment of registration fees for approximately 19,500 units, as well as requests for waiver of penalties for late payments, registration of approximately 4,500 new rents established after a change in tenancy each year, annual verification of approximately 2,000 units with temporary exemptions and verification of changes in exemption status. The unit staff calls landlords with past histories of late payment in advance of each year's due date to help them avoid penalties. We are not aware of any other agency (public or private) that goes to these lengths to avoid assessing a penalty. If a penalty is assessed, the Board

processes several hundred requests a year to have the penalty reduced or forgiven entirely based upon good cause, with relief being granted in over 90% of the cases.

The **Public Information unit** (PIU) conducts extensive outreach to inform landlords and tenants of their rights and obligations through regular mailings, newsletters and other media. It holds monthly informational meetings at libraries and senior centers, weekly hours for counseling on the UC Berkeley campus, and does workshops for landlords and tenants. For example, in each of the past several years we held a workshop on eviction procedures for landlords to ensure that owners who needed to engage in this process knew how to do it correctly. PIU staff conducts regular workshops specifically for new property owners. Each of these workshops are generally attended by 60 or more owners, expressing appreciation for the comprehensive presentations. PIU contacts new owners of Berkeley rental property and sends information packets to new tenants. It sends information on the eviction for good cause requirements to tenants who have received a three-day eviction notice. PIU now responds to over 12,000 inquiries/client contacts from the public annually, and when landlords or tenants bring in specific situations the staff follows through advising one or both parties until the situation is resolved. Although the Rent Program's current software does not provide detailed statistics, we know that volume of inquiries and counseling has increased substantially since 2008. Initially in response to the uncertainty caused by threats of eviction on foreclosed properties and more recently in response to dramatic rent increases and perceived harassment and/or threatened eviction. Over the past few years we estimate that demand has gone up an additional 20%.

Staff is allocated as needed between the Registration and Public Information units, with a total of 10.85 FTE budgeted.

The **Hearings unit**, with 2.00 FTE (including 1.4Hearing Examiners), deals with situations in which conflict has arisen between a landlord and a tenant. In 2018 its staff held hearings on 167 petitions for rent reductions or rent increases. In addition, the Hearings and Public Information units jointly conduct a mediation program and held 84 formal mediations in 2018. Hearings staff also carry out occasional special projects.

The **Legal unit**, with 3.55 FTE, is responsible for advising the Board and Executive Director on all legal matters, similar to how the City Attorney advises the City Council and City Manager. The Legal Unit also handles collection of unpaid registration and penalty fees, reviews hearings unit decisions that are appealed to the Board and responds to writs and lawsuits filed against the Board. In 2010 the unit filed in small claims court against 140 properties and subsequently had to file liens with the County on 40 of these properties. When banks foreclose on a property and fail to pay fees, leaving them to an often unknowing new owner, the Legal unit will join with the new owner in pursuing payment from the bank. Since 2010 the economic situation for owners facing foreclosure has abated considerably and the number of cases requiring litigation has decreased accordingly, the staff resources have been redirected to the outreach and counseling services

The **Administrative/Policy unit**, with 5.95 FTE, includes the Executive Director and Deputy Director, who are responsible for providing leadership and managing the agency under the general direction of the elected Board, drafting and maintaining the annual budget, hiring and promotions, grievances and disciplinary actions, contract negotiations, and maintaining effective relations with other elected officials, heads of other City departments and the public. The unit is also responsible for payroll, office administration, staffing meetings of the Board and its nine committees, and conducting research and analysis and producing reports.

Other City departments carry out several administrative support functions, although the City Charter does not require the Rent Board to use them. They include the City Auditor, Finance/Treasury, City Clerk, Human Resources, and an outside auditor selected by City. With the exception of the Executive Director, who is hired directly by the elected board with the assistance of an executive search firm, all personnel matters are conducted in consultation with the Human Resources Department in strict conformance with their procedures. The Executive Director hires and promotes staff through the City of Berkeley's civil service process. The City's Human Resources Department handles the outreach, determines eligibility for the list and ranks the candidates. All top candidates and others from within the City system are interviewed by a panel that provides recommendations to the Executive Director. The permanent staff, hired by the Rent Board, almost universally were ranked in the "most highly qualified" group by the HR Department and received the highest ranking by the professional review panel conducting the job interviews.

All Rent Program positions except that of the Executive Director are defined within the City's job classification system. When the positions of Deputy Director, Administrative Staff Assistant, and Senior Hearing Examiner were created, it was reviewed not only by the Rent Board but also by the City's Personnel Commission and then approved by the City Council. The Rent Program Executive Director is co-signatory with the City Manager on all relevant union contracts and normally participates in contract negotiations as part of the management team. Employees at the Rent Program have seniority rights within the City system as a whole. The grievance and disciplinary procedures are defined by the union contracts and the Rent Program does what all other City departments do and follows the advice of the Human Resources Department and the Labor Relations Coordinating Committee.

Rent Program staff, like all City staff, is paid through the City Auditor's payroll unit. The Finance Department handles the Rent Program's banking functions. Purchasing is conducted under the advice of the Finance Department, following standard City bidding and RFP procedures, with the exception that the Rent Program staff may, with approval of the Executive Director, take advantage of cost savings from, for example, obtaining more bids than the City normally requires or by using an immediate credit card payment to obtain a lower cost.

The Rent Program originally hired its own Information Technology staff, but now relies on both the Information Technology Department for basic support, and contracts with outside consultants for IT project management and programming services. This arrangement was intended to both provide more comprehensive service and greater flexibility as needs change.

IV. Berkeley Rent Program Annual Budgets, An Overview of Changes from 1980 - 2018

Table 1 below shows changes in the Rent Stabilization Program finances and staffing over time. After each several years of data there is an explanation of major issues and changes. Some of the information is not readily available for the early years, but later reports provided historical data on annual registration fees going back to the beginning of the agency in 1980 and on staffing FTEs (full-time equivalents) going back to 1985. The adopted budget is given starting in 1988-89 and actual expenditures since 1990/91, rounded to the nearest \$1,000.

When the agency began in 1980/81 the initial budget and staffing was completely unrealistic. The agency needed to determine which units were covered and which were exempt and register initial base rents for covered units while dealing with a deluge of lawsuits and concerted refusal to comply with the law. The owners of thousands of units tried to prevent the agency from carrying out its mission by refusing to pay fees or register base rents, forcing the City Council to lend money to support the program. In 1982 a voter initiative increased penalties for late payment and empowered the Board to place liens on properties whose owners failed to pay. Compliance increased substantially the following year.

Santa Monica passed its ordinance in 1979 and began rent registration with an annual fee of \$12.50 per unit, which may have provided the model for Berkeley's starting point of \$12. Two years later, in 1981, the Santa Monica fee was set at a more realistic \$72 per unit. Berkeley was several years slower in coming to this realization, with the fee reaching \$60 in 1984.

Table 1: Rent Board Budget History (see Appendix for full table without breaks for commentary)

<u>Fiscal Year</u>	<u>FTE</u>	<u>Fee</u>	<u>Adopted Budget</u>	<u>Actual Expenditures</u>
1980 – 1981		\$12		
1981 – 1982		\$12		
1982 – 1983		\$30		
1983 – 1984		\$30		
1984 – 1985		\$60		
1985 – 1986	31.5	\$60		

In 1986 the legislature passed the Petris Act, requiring rent control agencies to certify rent ceilings by the end of the following year. Staffing reached its peak in FY 1986-87 as the Agency hired more staff in a final effort to clarify the base rents for as many units as possible before the deadline.

<u>Fiscal Year</u>	<u>FTE</u>	<u>Fee</u>	<u>Adopted Budget</u>	<u>Actual Expenditures</u>
1986 – 1987	36.0	\$60		
1987 – 1988	31.5	\$80		
1988 – 1989	31.5	\$80	\$1,861,000	
1989 – 1990	32.93	\$100	\$2,220,000	
1990 – 1991	33.63	\$100	\$2,180,000	\$2,676,000
1991 – 1992	28.35	\$136	\$2,385,000	\$2,147,000
1992 – 1993	29.65	\$125	\$2,510,000	NA
1993 – 1994	26.2	\$125	\$2,400,000	\$2,410,000
1994 – 1995	26.9	\$115	\$2,345,000	\$2,290,000

In the November 1990 elections a new majority gained control of the Rent Board. They cut programs and staff and approved major rent increases in response to *Searle v. City of Berkeley Rent Stabilization Board*. The City Council filed suit against the elected Board arguing that the increases were larger than legally necessary. At that point the Rent Board attorneys and a legal secretary (3.5 FTE) were moved from the City Attorney's Office to the Rent Board to eliminate the resulting conflict of interest. The Rent Board majority changed again in the November 1994 elections, but in 1995 the state legislature passed legislation mandating vacancy decontrol. The Costa Hawkins Act created a three-year phase-in period from 1996 to 1998 in which landlords could receive a 15% vacancy increase and full vacancy decontrol began on January 1, 1999.

As vacancy decontrol went into effect the number of rent increase petitions filed by landlords declined, as did the level of litigation. In FY 1996/97 Rent Program staff included a Chief Legal Counsel, two Staff Attorney positions and 4.6 Hearing Examiners. By FY 2002/03 the Chief Legal Counsel was eliminated and there were 2.3 Hearing Examiners. (See Table 3 for detailed information on changes in the hearings unit.)

<u>Fiscal Year</u>	<u>FTE</u>	<u>Fee</u>	<u>Adopted Budget</u>	<u>Actual Expenditures</u>
1995 – 1996	26.6	\$125	\$2,410,000	\$2,266,000
1996 – 1997	26.6	\$112	\$2,308,000	\$2,278,000
1997 – 1998	24.6	\$112	\$2,387,000	\$2,405,000
1998 – 1999	24.6	\$112	\$2,417,000	\$2,234,000
1999 – 2000	23.7	\$124	\$2,412,000	\$2,299,000
2000 – 2001	22.2	\$124	\$2,457,000	\$2,286,000
2001 – 2002	22.3	\$124	\$2,602,000	\$2,464,000
2002 – 2003	22.3	\$124	\$2,769,000	\$2,676,000
2003 – 2004	21.3	\$136	\$2,992,000	\$2,751,000

In November 2004 voters passed Measure O which was jointly sponsored by the Rent Board and the Berkeley Property Owners Association. It set the Annual General Adjustment in rent at 65% of the increase in the Consumer Price Index rather than according to an annual cost study conducted by an outside consultant. With the onset of the financial crisis and recession in 2008 and subsequent recovery, there was an upsurge in demand for counseling that has continued unabated to the present.

<u>Fiscal Year</u>	<u>FTE</u>	<u>Fee</u>	<u>Adopted Budget</u>	<u>Actual Expenditures</u>
2004 – 2005	20.3	\$136	\$3,155,000	\$2,857,000
2005 – 2006	19.3	\$154	\$3,236,000	\$2,967,000
2006 – 2007	19.3	\$154	\$3,290,000	\$3,107,000
2007 – 2008	19.3	\$170	\$3,525,000	\$3,313,000
2008 – 2009	19.3	\$170	\$3,517,000	\$3,546,000
2009 – 2010	20.4	\$194	\$3,995,000	\$3,496,000
2010 – 2011	20.95	\$194	\$3,950,000	\$3,648,000
2011 – 2012	20.55	\$194	\$3,950,000	\$3,859,000
2012 – 2013	25.05*	\$194	\$4,270,000	\$4,174,000
2013 – 2014	21.45	\$194	\$4,120,000	\$3,954,000
2014 – 2015	20.75	\$194	\$4,245,000	\$3,961,731
2015 – 2016	21.65	\$213	\$4,550,000	\$4,549,995
2016 – 2017	23.35	\$234	\$4,862,000	\$4,943,059
2017 – 2018	22.35	\$270	\$5,525,740	\$4,584,705
2018 – 2019	22.35	\$250	\$5,172,000	N/A

* At no time was the actual staffing level above 21.0 FTE

Fully 77% of the Rent Program budget is for staff salaries and benefits. For a dozen years staffing remained largely level (or decreased slightly) but expenditures have increased substantially. This reflects the contracts negotiated by the City of Berkeley with its employee unions, especially the rapid increases in benefit costs resulting from the increased cost of health insurance and increased contributions to pension plans. For example, in FY 2002/2003 with a stock market boom under way and CalPERS reporting the pension plan fully funded as a result, employee benefits were budgeted at 25% of employee salaries. Recently, with increased pension and health insurance costs, employee benefits were over 68% of salary. In other words, a minimum of \$900,000 of the FY 2016/17 budget was the result of the increased benefits ratio since 2002. Without that change, the increase in the budget between 2002/2003 matches or is less than the rate of inflation in the Bay Area. In response to tremendous demand for services, the staffing level was increased to 23.35 FTE. This level is not as high as pre-Costa staffing levels but does reflect our need to respond in a time of extended crisis.

It should be noted that the problem of increasing pension costs is the result of the investment strategy chosen by the California Public Employees Retirement System, not the pensions themselves. CalPERS did not set aside adequate reserves for an eventual market downturn, and undercharged the State and local governments during a decade of high stock-market returns. It is as if local governments had borrowed against their pension obligations during the stock-market boom of the 2000s and now have to repay the money. If pension costs had been correctly estimated, then personnel costs would have been higher during that period and the Rent Board would have charged higher fees. In effect, landlords and tenants are now paying higher fees to make up for the unrealistically low fees charged in earlier years.

Since the passage of the Public Employees' Pension Reform Act (PEPRA) in 2012 pension costs have lowered as a percentage of employee salary. Employees hired by the Rent Stabilization Program after June 1, 2013 make a higher contribution to their retirement plan and have a less costly plan that is based on a retirement age of 62 rather than 55. In Fiscal Year 2016/2017 the actual cost of benefits were 68% of salary for Program employees. Due to the increasing number of newer hires that are entering CalPERS under PEPRA, the Program's employee benefits to salary ratio decreased to 65% for Fiscal Year 2017/2018. Now that PEPRA employee's make-up more than half of the current staff, benefits are projected to be closer to 60% of salary for Fiscal Year 2018/2019.

V. Meeting the Challenges of the 21st Century

Our agency changes to meet the evolving needs of the community we serve. What is often not understood is that, while Costa-Hawkins largely eliminated the need for hundreds of administrative hearings to determine building-by-building fair return requirements, the Rent Board's other responsibilities have remained intact and in some cases have increased in scope and importance.

Eviction for Good Cause

With the passage of Costa-Hawkins the number of hearings has decreased but the financial incentive for an owner to evict a long-term tenant in good standing has increased dramatically. In the first few years of vacancy decontrol we witnessed hundreds of cases of owners attempting to evict tenants without "good cause", so that they could increase the rent paid by a new tenant. This undermines the stated intent as well as the integrity of the Ordinance. The Board responded by increasing outreach and information and ensuring that low-income households had access to eviction defense services from local legal assistance organizations. All new owners and new tenants receive a package of information from the Program concerning our services and the protections offered under the law. Over the past decade, all owners and tenants received an

informative and easy to read newsletter several times a year. The format has changed to a more attention-getting large size postcard focused on one or two topics.

In response to the foreclosure crisis we created a new outreach program to ensure that tenants in foreclosed buildings are aware of their rights. Representatives of lenders routinely demand that tenants in foreclosed buildings leave their homes and threaten them with eviction despite the fact that foreclosure is not a “good cause” for eviction under Berkeley’s Rent Stabilization and Eviction for Good Cause Ordinance. The Rent Program staff obtains information monthly on properties that are declared to be in default or foreclosure and then mails information to all units on these properties informing occupants that if they are a tenant they have a right to remain in their unit. The mailing also provides the tenant with contact information for the Rent Board and legal assistance organizations. Staff at the East Bay Community Law Center and the Eviction Defense Center have informed us that Berkeley tenants are better informed of their rights than tenants in neighboring cities and more likely to contact them if their tenancy is threatened.

Reallocation of staff to dispute resolution

Although the Berkeley Property Owners Association threatens litigation against the Rent Board on a regular basis, the overall level of litigation in Superior Court involving the Rent Board is down and one of the two previous Staff Attorney III positions has been replaced by a Staff Attorney I. Current budgeted legal staffing is now one Staff Attorney III and two Staff Attorney II positions. Part of an FTE of the Staff Attorney II position is assigned to the Public Information Unit to assist in responding to particularly difficult questions and to provide oversight of the small claims court cases.

Table 2: Cases filed in Small Claims Court and Liens filed with Alameda County

Year	Small Claims Cases	Liens Filed
2007/8	53	17
2008/9	84	33
2009/10	91	29
2010/11	140	40
2011/12	133	33
2012/13	73	16
2013/14	69	17
2014/15	61	8
2015/16	90	13 judgements, # liens unknown
2016/17	44	10
2017/18	40	7

At one point in the mid-1980's the Board filed over 1000 cases in a year for unpaid fees and penalties. Several hundred a year was the norm through the 1990's. Since 2000, we have averaged between 50-100 cases per year. As Table 2 (above) shows peak of the foreclosure crisis (2011 and 2012) was an exception, where between 130-140 cases were filed. On average no more than one small claims case a year is denied by the commissioner hearing the case although a few are remanded to the Rent Board for review of newly made claims that the unit is exempt. The number of cases filed in 2016 increased somewhat because staff reviewed the exempt status of 12,000 units adding more than 250 previously unregistered units to the rolls. In the past

The number of Hearing Examiners went from 6.85 in 1991/92 to 4.6 in 1996/97 to 2.3 in 2000/01 was further reduced to 1.4 in the 2016/17 fiscal year (See Table 3). The Rent Program is now placing greater emphasis on providing mediation services to try to resolve landlord-tenant disputes. This reduces landlord-tenant litigation and formal complaints that require hearings and improves landlord-tenant relations generally. Mediation has been particularly effective in assisting owners who are locked into disputes with long-term tenants that might otherwise result in repeated hearings or eviction notices and going to court.

Table 3: Rent Hearings and Mediations by Calendar Year

	<u>Hearing</u> <u>Petitions</u>	<u>Landlord</u> <u>Petitions</u>	<u>Tenant</u> <u>Petitions</u>	<u>Appeals</u> <u>to Board</u>	<u>Mediations</u>	Examiner <u>FTE</u>
1992	NA					6.85
1993	NA					5.35
1994	NA	NA	NA			4.6
1995	485	345	128	NA	NA	4.6
1996	381	190	184			4.6
1997	425	192	222	NA	NA	4.6
1998	362	167	191			2.6
1999	364	88	235	NA	NA	3.2
2000	325	75	250			3.2
2001	312	66	245	20	NA	3.3
2002	262	54	204	29		2.3
2003	161	42	111	22	NA	2.3
2004	122	30	78	19		2.3
2005	117	21	89	7	NA	2.3
2006	142	23	103	12	5	2.3
2007	118	29	82	9	16	2.3
2008	152	36	100	9	13	2.3
2009	134	26	98	15	70	2.3
2010	104	22	75	13	135	1.95*
2011	128	25	74	8	83	1.85
2012	151	58	83	13	88	1.85
2013	145	57	88	8	118	1.85
2014	141	52	89	7	81	1.85*
2015	153	69	84	12	89	1.50
2016	176	64	112	4	98	2.00*
2017	193	52	141	12	100	1.70*
2018	169	61	108	5	84	1.40

Notes: Petition data from 2006 /2010 are based on December 1st of the previous year through November 30th.

Hearings for “Certification”, “Occupancy” and “Exempt Status” are not categorized as landlord or tenant petitions.

* The FY 2009/10 FTE of 2.45 was changed to 1.95 with the loan of 0.5 FTE to the City as a cost saving measure. Similarly, in FY 2014 we budgeted 1.85 FTE but due to staff turn-over only used 1.5FTE. In 2016, 2.0 FTE was budgeted but actual allocation was closer to 1.5 FTE. In 2017, 2.0 FTE was reduced to 1.4 FTE.

No statistics on mediations were kept prior to 2006, although a few were done on an informal basis.

FTE is for the fiscal year including January-June of the calendar year for which hearing data is given.

One way the Rent Program has reduced costs while helping to maintain staffing in its Hearings Unit is by making Hearing Examiners available to the Berkeley Housing Authority, with their hourly costs reimbursed by the BHA. The number of BHA cases heard declined since FY 2016/17. For nearly a decade Examiners have generally done 10 - 20 hearings a year for the BHA. In FY 2015-16, we began conducting Shelter Plus Care hearings for the Housing Department. Rent Program Hearing Examiners can also serve as back-up for the City Hearing Examiner when she is away or backlogged, with the hourly costs paid by the City Manager's Office. It is essential for the program to maintain its own staff of experienced Hearing Examiners. The issues are too specialized and specific to the Berkeley ordinance and its implementing regulations for contracting with outside hearing examiners to be successful. Berkeley and several other rent control jurisdictions that have experience with hiring outside hearing examiners have ultimately decided to hire in-house examiners given the complexity of the governing laws and regulations.

The Rent Board has gradually decreased the number of staff and the proportion of higher salaried staff. Its goal has been to prevent or avert conflict through information and counseling rather than adjudication. When there is a dispute, staff tries to resolve it with the least conflict possible (voluntary mediation rather than a formal hearing) in order to preserve the relationship between the parties and contain costs.

Interdepartmental Coordination

In addition to conducting hearings for the city, the Rent Stabilization Program routinely provides assistance to other departments. Tenant petitions for rent reductions are one of the City's tools for ensuring that landlords correct housing code violations. The Planning Department review of applications for condominium conversion includes a Rent Program staff review of whether there have been evictions on the property of a nature that would disqualify it from conversion under the City's condominium conversion ordinance. The Board has been requested to perform a similar review in order to assist with enforcement of the Short-Term Rental Ordinance. The Rent Board is reimbursed for assisting the City with the Condominium Conversion and the Short-Term Rental Ordinance. The Auditor's Office uses data on rent ceilings to help track down owners who fail to pay the required percentage of gross rent as business license tax.

The Rent Board is working to improve cooperation with the Planning and Development Department, the Health, Housing and Community Services Department, the Auditor and the IT and Finance Departments. Important issues that involve both the Rent Stabilization Program and the Departments under the City Council in recent years have included:

- assistance in drafting and the ongoing tracking of the Tenant Buyout Ordinance and the Tenant Protection Ordinance;

- increasing seismic safety in “soft story” buildings, where the ground floor may collapse in a major earthquake;
- improving energy efficiency in rental properties;
- setting conditions for demolition of existing rental housing to allow redevelopment of the site at higher densities, which could displace long-term tenants;
- developing appropriate procedures for dealing with owners of unpermitted units while minimizing harm to their tenants;
- housing code enforcement and improvements to citywide habitability;
- assisting in developing a smoking ordinance for multifamily properties to ensure that health and safety goals are met without causing improper evictions;
- assisting in extending recycling to multifamily rental buildings;
- assisting in extending disaster preparedness organizing to multifamily buildings;
- improving tax revenue collection through pooling information on rents.
- Implementation of the Ellis Eviction mitigation Ordinance.
- Posting of the rules and the rates for tenant screening fees under recent ordinance adopted by the City Council.
- serving, at the request of the City Manager, as the initial point of contact and counseling for tenants displaced in several major fires concerning their rights as well as possible resources to assist them in their relocation;
- assisting in the development and implementation of Berkeley’s Short-Term Rental Ordinance.

In addition, since protection of tenants from improper evictions is an essential part of the mission of the Rent Program, it is important to have procedures that provide an appropriate balance between enforcement of City zoning, housing and other code requirements and protection of tenants so that they can either return to their homes once violations are cleared or have a transition that prevents unnecessary disruption or even homelessness. Over the past decade a series of court decisions have changed the legal landscape in significant ways, with the result that some existing City procedures no longer provide the balance that was originally intended.

Strengthening Internal Capacity

The Rent Stabilization Program is most of the way through a several years long and much delayed process of improving internal procedures and upgrading Rent Program software for greater efficiency. The Rent Board’s Rent Tracking System software, which was over 20 years old and obsolete, was replaced in 2014. Once fully developed, the new software is expected to make it possible to slightly reduce ongoing staffing in the registration unit as well as make Rent Board information more accessible and easier to analyze. This is an ongoing process and efforts to expand and enhance these opportunities will be presented to the Board over the next few months.

When the new system is fully developed, the Rent Board will be able to dramatically increase its use of the web for business and communications. We have already begun seeing some of the benefits of these changes and will continue these improvements over the next several years. The Rent Board is a high-volume agency, with annual registration of nearly 20,000 units as well as annual notifications of legal rent ceilings, new rent registration of several thousand units every year, and around 12,000 additional client contacts every year with questions and concerns that often required detailed knowledge of the rent ordinance and related City and State laws to resolve.

The Board's Rent Tracking System launched a new web portal in 2016 that allowed property owners to pay annual registration fees on line. This feature was expanded in 2018 allowing owners to transact most registration business online should they choose to do so. Staff verifies all unit information provided regardless of if it is provided online, by mail or in person. We have used the new system to expand communication via email. Many owners received early notice of the AGA because they provided email addresses. This is a feature we hope and expect to expand on over the next few years. Email has allowed clients to receive information earlier and will eventually reduce postage and printing costs. In addition, the Board has used social media, such as Facebook, in order to provide information and updates to the public. Increased use of email and social media will continue and extend the Board's tradition of openness and transparency, currently best exemplified by having its meetings carried by cable TV, radio, and webcast with closed captioning and making agendas and accompanying staff reports available on the web.

Table 1. Berkeley Rent Program Annual Budgets

<u>Fiscal Year</u>	<u>FTE</u>	<u>Fee</u>	<u>Adopted Budget</u>	<u>Actual Expenditures</u>
1980 – 1981		\$12		
1981 – 1982		\$12		
1982 – 1983		\$30		
1983 – 1984		\$30		
1984 – 1985	NA	\$60		
1985 – 1986	31.5	\$60		
1986 – 1987	36.0	\$60		
1987 – 1988	31.5	\$80	NA	NA
1988 – 1989	31.5	\$80	\$1,861,000	\$1,642,000
1989 – 1990	32.93	\$100	\$2,220,000	\$1,873,000
1990 – 1991	33.63	\$100	\$2,180,000	\$2,676,000
1991 – 1992	28.35	\$136	\$2,385,000	\$2,147,000
1992 – 1993	29.65	\$125	\$2,510,000	NA
1993 – 1994	26.2	\$125	\$2,400,000	\$2,410,000
1994 – 1995	26.9	\$115	\$2,345,000	\$2,290,000
1995 – 1996	26.6	\$125	\$2,410,000	\$2,266,000
1996 – 1997	26.6	\$112	\$2,308,000	\$2,278,000
1997 – 1998	24.6	\$112	\$2,387,000	\$2,405,000
1998 – 1999	24.6	\$112	\$2,417,000	\$2,234,000
1999 – 2000	23.7	\$124	\$2,412,000	\$2,299,000
2000 – 2001	22.2	\$124	\$2,457,000	\$2,286,000
2001 – 2002	22.3	\$124	\$2,602,000	\$2,464,000
2002 – 2003	22.3	\$124	\$2,769,000	\$2,676,000
2003 – 2004	21.3	\$136	\$2,992,000	\$2,751,000
2004 – 2005	20.3	\$136	\$3,155,000	\$2,857,000
2005 – 2006	19.3	\$154	\$3,236,000	\$2,967,000
2006 – 2007	19.3	\$154	\$3,290,000	\$3,107,000
2007 – 2008	19.3	\$170	\$3,525,000	\$3,313,000
2008 – 2009	19.3	\$170	\$3,517,000	\$3,546,000
2009 – 2010	20.4	\$194	\$3,995,000	\$3,496,000
2010 – 2011	20.95	\$194	\$3,950,000	\$3,648,000
2011 – 2012	20.55	\$194	\$3,950,000	\$3,859,000
2012 – 2013	25.05*	\$194	\$4,270,000	\$4,174,000
2013 – 2014	21.45	\$194	\$4,120,000	\$3,954,000
2014 – 2015	20.75	\$194	\$4,245,000	\$3,961,731
2015 – 2016	21.65	\$213	\$4,550,000	\$4,549,995
2016 – 2017	23.35	\$234	\$4,862,000	\$4,943,059
2017 – 2018	22.35	\$270	\$5,525,740	\$4,584,705
2018 – 2019	22.35	\$250	\$5,172,000	N/A

Detailed information on Berkeley Rent Program annual budgets from the early years is not readily available, but later reports provided historical data on annual registration fees going back to the beginning of the agency in 1980 and on staffing FTEs (full-time equivalents) going back to 1985. The contract with the IT Department is counted as an FTE. Temporary staffing prior to 2009 is not readily available and is excluded to maintain comparability. The adopted budget is given starting in 1989 and actual expenditures beginning in 1988 -89 (except for 1992-93). * at no time was actual staffing ever above 21.0 FTE.

Rent Stabilization Program
FUND 440
FY 2020 3/4th-Year Budget Update and Proposed FY 2021

Code	Description	Actual FY2019	Adopted FY2020	YTD 3/4ths FY 2020	Projected Year-End FY 2020	Proposed FY 2021
11-01	Monthly Employees	2,185,910	2,500,000	1,646,068	2,250,000	2,482,000
11-03	Hourly Employees	149,612	200,000	168,947	225,000	0
13-01	Overtime	13,668	10,000	1,372	5,000	5,000
27-20	Benefits	1,429,066	1,650,000	1,103,615	1,520,000	1,620,000
30-12	Stipends	53,200	53,000	37,800	51,300	53,500
30-23	Misc. Legal Expenses	5,216	7,500	4,857	130,000	360,000
30-36	Temp. Agency Employees	448	1,000	0	1,000	0
30-38	Misc. Professional Services	291,375	352,500	201,650	353,000	410,000
30-42	Office Equip. Mtc. Svcs. / Furniture	2,704	13,000	6,876	13,000	13,000
30-43	Bldg. & Structures Mtc. Svc.	237	400	250	400	400
30-51	Bank Credit Card Charges	25,634	35,000	17,300	25,000	25,000
40-10	Professional Dues & Intern Fees	6,267	4,000	2,779	3,000	3,000
40-31	Telephones	3,619	4,200	3,661	5,000	5,000
40-50	Printing and Binding	20,293	38,000	25,483	32,000	25,000
40-62	Meals & Lodging	706	4,000	0	1,000	1,000
40-63	Registration Fees/Training	2,250	1,000	0	1,000	12,000
40-61/64	Transportation & Commercial Travel	2,424	14,000	603	1,500	5,000
40-70	Advertising/public access	40,331	45,000	33,248	50,000	30,000
40-80	Books & Publications	13,745	13,000	8,543	13,000	13,000
50-10	Rental of Land / Buildings	285,311	340,000	286,181	350,000	355,000
51-10	Postage	43,761	45,000	28,673	35,000	25,000
51-20	Messenger / Delivery	520	800	201	500	500
55-11	Office Supplies	10,438	13,500	10,237	12,500	15,000
55-50	Food and Water	2,139	3,000	647	2,000	2,000
70-43	Office Equipment and Furniture	1,847	5,000	418	1,000	5,000
70-44	Computers, Printers, Software	4,564	10,000	2,207	5,000	10,000
75-25	PC Replacement/City Software Licences	9,500	9,500	0	9,500	50,709
75-35	Mail Services	3,600	3,600	2,700	3,600	3,600
75-50	City Vehicle / Fuel & Maint.	1,500	1,500	1,500	1,500	1,500
	Expenditure Subtotal**	4,608,188	5,377,500	3,590,575	5,100,800	5,531,209
	Special Projects (RTS Upgrade, online registration, training)	235,846	182,500	30,090	80,000	565,000
	Annual Capital Reserve	0	400,000	0	0	0
	Total Authorized Fund Expenditures*	4,844,034	5,960,000	3,625,905	5,180,800	6,096,209
	Total Authorized Fund Revenue*	5,251,527	5,150,000	5,003,670	5,020,000	4,850,000
	Annual Surplus/Shortfall	407,493	(810,000)	1,377,765	(160,800)	(1,246,209)
	<i>Previous FY Carryover Expenditures</i>	51,190		51,190	51,190	
	FUND BALANCE (cash basis)	1,624,196	814,196	2,950,771	1,412,206	165,997
	FUND BALANCE (accrual basis)	1,573,006	814,196	2,950,771	1,412,206	165,997
	TOTAL UNCOMMITTED OPERATIONAL FUND BALANCE	1,073,006	714,196		912,206	130,997

* Note: this report only reflects charges & revenues against the Rent Board Fund (Fund 440) and does not include services charged to or received from other funds

** Note: variance in actual expenditures and total fund balance reflects remaining balance in reimbursement offset escrow

Rent Board Position Detail
Sorted by Classification

Classification Title	Adopted FY 19/20	Proposed FY 20/21
Accounting Office Specialist III	1.00	1.00
Associate Management Analyst	1.00	1.00
Associate Planner (Temporary)	0.00	1.00
Community Service Specialist II	6.00	1.00
Community Service Specialist III	0.80	6.00
Deputy Director	1.00	0.80
Executive Director	1.00	1.00
Hearing Examiner	1.00	0.00
Office Specialist II	4.30	4.00
Office Specialist III	1.00	1.00
Legal Secretary	0.00	0.80
Senior Hearing Examiner	1.00	1.00
Senior Legal Secretary	1.00	0.00
Senior Management Analyst	1.75	0.75
Senior Planner	1.00	1.00
Staff Attorney II	2.00	2.00
Staff Attorney III	1.00	1.00
TOTAL FTE:	24.85	23.35

Proposed Changes in FY 2021 include the following:

Eliminate a 1.0 FTE Staff Attorney I
 Eliminate a 1.0 FTE Accounting Office Specialist II
 Eliminate a 1.0 FTE Office Specialist II

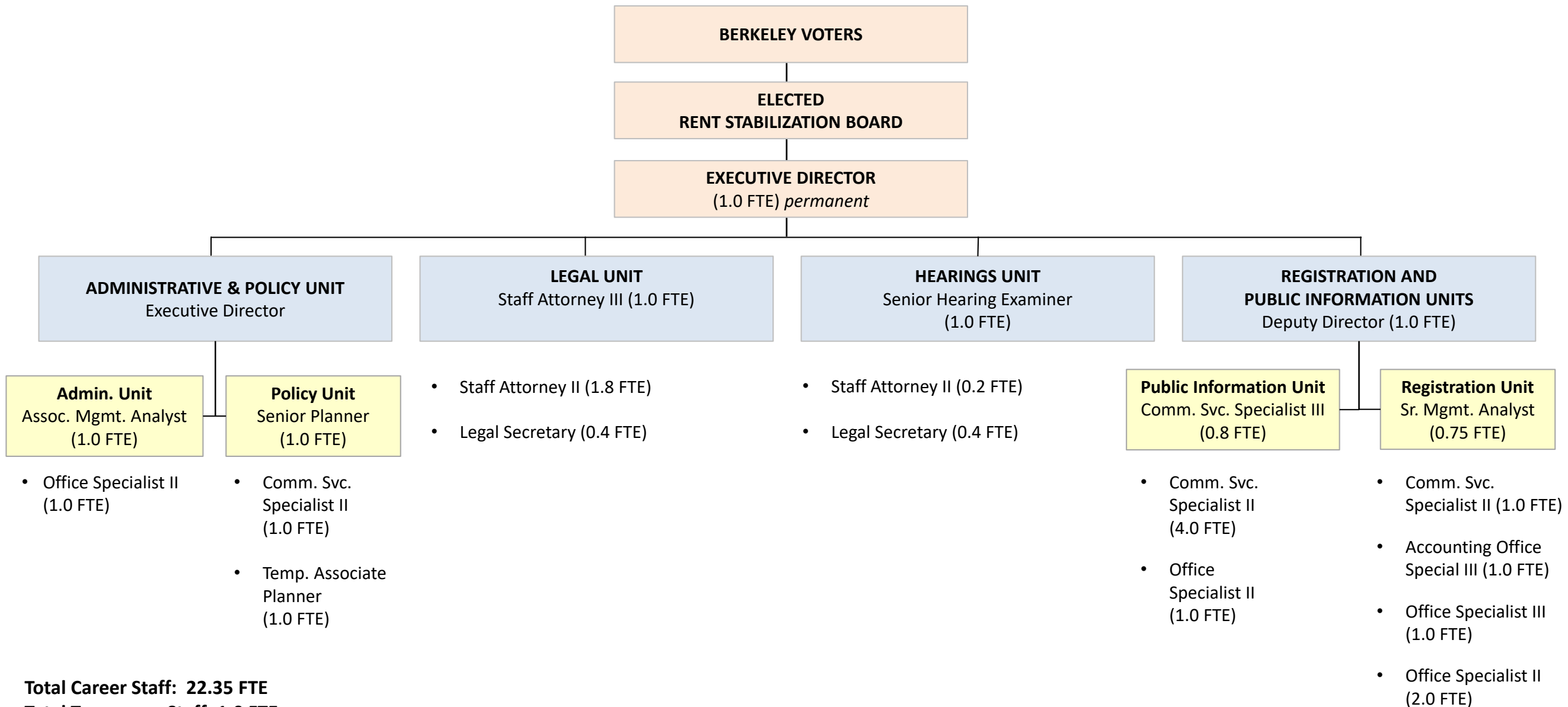
RENT BOARD POSITION DETAIL			
Sorted by Unit, Classification and Job Assignment			
Budget Code 11-01 (Monthly Employees) + 11-03 (Hourly Employees)			
FY 2020 Adopted		FY 2021 Proposed	
Administration / Policy Unit		Administration / Policy Unit	
Executive Director	1.00	Executive Director	1.00
Deputy Director	1.00	Deputy Director	1.00
Community Services Specialist II	1.00	Community Services Specialist II	1.00
Associate Management Analyst	1.00	Associate Management Analyst	1.00
Senior Planner	0.70	Senior Planner	0.70
Associate Planner (Temporary)	0.00	Associate Planner (Temporary)	1.00
Senior Management Analyst	1.00	Senior Management Analyst	0.00
Senior Legal Secretary	0.25	Senior Legal Secretary	0.00
Accounting Office Specialist II	0.00	Accounting Office Specialist II	0.00
Office Specialist II	1.00	Office Specialist II	1.00
Subtotal for FTE	6.95	Subtotal for FTE	6.70
Salary/Benefit Total = \$1,315,000		Salary/Benefit Total = \$1,250,000	
Legal Unit		Legal Unit	
Staff Attorney III	1.00	Staff Attorney III	1.00
Staff Attorney II	1.80	Staff Attorney II	1.60
Staff Attorney I	0.00	Staff Attorney I	0.00
Senior Legal Secretary	0.75	Senior Legal Secretary	0.00
Legal Secretary	0.00	Legal Secretary	0.40
Subtotal for FTE	3.55	Subtotal for FTE	3.00
Salary/Benefit Total = \$810,000		Salary/Benefit Total = \$600,000	
Hearings Unit		Hearings Unit	
Hearing Examiner	1.00	Hearing Examiner	0.00
Senior Hearing Examiner	1.00	Senior Hearing Examiner	1.00
Staff Attorney II	0.00	Staff Attorney II	0.20
Legal Secretary	0.00	Legal Secretary	0.40
Office Specialist II	0.60	Office Specialist II	0.00
Subtotal for FTE	2.60	Subtotal for FTE	1.60
Salary/Benefit Total = \$490,000		Salary/Benefit Total = \$415,000	
Registration & Public Information Units		Registration & Public Information Units	
Community Services Specialist III	0.80	Community Services Specialist III	0.80
Staff Attorney II	0.20	Staff Attorney II	0.20
Senior Management Analyst	0.75	Senior Management Analyst	0.75
Senior Planner	0.30	Senior Planner	0.30
Community Services Specialist II (1 Temp.)	5.00	Community Services Specialist II	5.00
Office Specialist III	1.00	Office Specialist III	1.00
Accounting Office Specialist III	1.00	Accounting Office Specialist III	1.00
Office Specialist II (0.50 Temp.)	2.70	Office Specialist II	3.00
Subtotal for FTE	11.75	Subtotal for FTE	12.05
Salary/Benefit Total = \$1,645,000		Salary/Benefit Total = \$1,865,000	
Total RSB Staff	24.85	Total RSB Staff	23.35
Board Approved Changes in FY 2020 include the following: Create temporary 1.0 FTE Associate Planner Convert a 1.0 FTE Senior Management Analyst to a 1.0 FTE Staff Attorney I Eliminate a 1.0 FTE Hearing Examiner Create a 1.0 FTE Accounting Office Specialist II Convert a temporary 1.0 FTE Community Services Specialist II to a permanent position Convert a temporary 0.5 FTE Office Specialist to a permanent 1.0 FTE Office Specialist II Convert a 1.0 FTE Senior Legal Secretary to a 1.0 FTE Legal Secretary		Proposed Changes in FY 2021 include the following: Eliminate a 1.0 FTE Staff Attorney I Eliminate a 1.0 FTE Accounting Office Specialist II Eliminate a 1.0 FTE Office Specialist II	

Attachment 5

Proposed Berkeley Rent Stabilization Program FY 2020/21 Organization Chart

Current Career and Temporary Positions FY 2020/21

Sorted by Division Supervision



Total Career Staff: 22.35 FTE

Total Temporary Staff: 1.0 FTE