

When the last "original" tenant leaves

State law generally allows a landlord to set the initial rent for new tenancies. But what happens if tenants come and go one-by-one so that the unit is "never" entirely vacant? The landlord is still allowed to re-set the rent at market after each complete turn-over of tenants. (See Regulation 1013.)

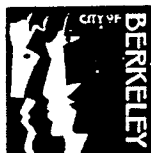
If the persons who occupy a unit within 30 days of the beginning of a tenancy consistent with the rental agreement, **regardless of whether their names are on the agreement or not**, are "original tenants" during that tenancy. As long as any of them remain occupying the unit, the landlord cannot re-set the rent level. (Of course, annually each January, there will be a "cost-of-living" raise in the lawful rent ceiling.)

When the last of the original tenants permanently moves out, if replacement tenants who moved in after them still remain, the replacement tenants become a new group of "original tenants." After the last tenant in a group leaves, the landlord establishes a new initial rent for the next group.

When the landlord receives a termination notice from a last original tenant and there are replacement tenants remaining, the landlord must act quickly if the landlord wishes to change the initial rent for the new group. Per state law, if the landlord accepts rent from the new group without notifying them of a change, that act waives the landlord's right to set a new initial rent for that new group. If the landlord wishes to re-set the rent, they must quickly notify the new group through a written 30-day notice that their initial monthly rent will be changed. (The landlord and tenant(s) can voluntarily extend this period to re-set initial rent up to six months if both parties sign a specific agreement to do so.)

For each group of tenants, the initial rent set for their group holds as long as any of them remain. (Each January, the rent ceiling will be adjusted with a "cost-of-living" type adjustment.)

If the tenants hide the information that the last member of the previous original group has left, they are not entitled to benefit. The landlord has the right to set the initial rent for the new group after the landlord is properly informed.



**Rent Stabilization Program
Public Information Unit
2125 Milvia Street / Berkeley, CA 94704**

Phone: (510) 644-6128

TDD: (510) 644-6915

FAX: (510) 644-7723

**E-mail: rent@ci.berkeley.ca.us
Internet: www.ci.berkeley.ca.us/rent**