

# **Landlord's Rights and Responsibilities And Withholding Rent**

- **Landlords**

## **LANDLORD'S RIGHTS**

**Before the rental unit is rented, the landlord has the right to:**

- Offer and advertise vacant units for rent.
- Screen potential tenants.
- Select the tenant who is to reside in the rental unit.
- Determine the terms of the rental agreement, including: how much rent to charge the incoming tenant (within lawful limit); whether to allow pets; etc.
- Collect first month's rent and security deposit.

**After the rental unit has been rented, the landlord has the right to:**

- Landlord has a right to petition for additional rent increases pursuant to [Chapter 12](#) of the Rent Stabilization Board Regulations.
- Enter the rental unit under the following circumstances:
  - In an emergency
  - To make necessary or agreed upon repairs, decorations, alterations, or improvements, supply necessary services, or show the unit to prospective buyers, tenants, or workers; when a tenant has abandoned or given up the premises; as a result of a Court Order.
- Initiate [eviction proceedings](#) for the following reasons:
  - Non-payment of rent. ([Berkeley Municipal Code \(BMC\) section 13.76.130A\(1\).](#))
  - Failure to comply with a material term of the lease. ([BMC section 13.76.130A\(2\).](#))
  - Tenant causes or allows damage to the unit and refuses to pay for the damage. ([BMC section 13.76.130A\(3\).](#))
  - Tenant refuses to sign a new lease which is substantially the same as the old lease. ([BMC section 13.76.130A\(4\).](#))
  - After notice to cease, the tenant continues to be disruptive as to destroy the peace and quiet of other tenants. ([BMC section 13.76.130A\(5\).](#))
  - Tenant refuses to allow access to the landlord who has a legitimate reason to do so. ([BMC section 13.76.130A\(6\).](#))
  - To make needed repairs which cannot be completed while the tenant resides in the unit. ([BMC section 13.76.130A\(7\).](#))
  - Owner seeks in good faith to demolish the rental unit and has received all permits to do so. ([BMC section 13.76.130A\(8\).](#))
  - Owner seeks in good faith to recover possession of the rental unit to occupy as his/her principal residence or the principal residence of a parent or child, and there

is no vacant or comparable unit otherwise available. ([BMC section 13.76.130A\(9\).](#))

- The owner or lessor wishes to recover a subletted unit which was previously occupied as his/her principal residence. ([BMC section 13.76.130A\(10\).](#))
- Tenant refuses to vacate temporary housing provided while repairs were being completed on tenant's unit. ([BMC section 13.76.130A\(11\).](#))
- Owner wishes to permanently go out of the residential rental business and has followed all the procedures required by the ordinance to do so. ([BMC section 13.77.](#))

## LANDLORD'S RESPONSIBILITIES

- Responsible for maintaining all rental property in habitable condition. (California Civil Code section 1941.1.)
  - Responsible for properly registering rental property with the Rent Stabilization Board (RSB). ([BMC section 13.76.080](#))
  - Responsible for annual refund of interest accrued on security deposits held on behalf of tenants. ([BMC section 13.76.070.](#))
  - Responsible for collecting no more than the maximum lawful rent. ([BMC section 13.76.100](#); California Civil Code section 1954.50 et.seq.)
  - Responsible for filing with the RSB a copy of any notice of termination, notice to quit, and/or summons and complaint, within ten (10) days after the tenant has been served with such notice or summons and complaint. ([BMC section 13.76.130D.](#))
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- **Landlord Liability**

**City of Berkeley  
Rent Stabilization Program  
2125 Milvia Street  
Berkeley, CA 94704  
Phone: (510) 644-6128 Fax: (510) 644-7723**

## INITIAL REGISTRATION STATEMENT

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

### PART I. PROPERTY IDENTIFICATION

The following information must be submitted for all units covered by the Rent Stabilization Ordinance of the City of Berkeley.

**A. Property Address:** \_\_\_\_\_

**Zip Code:** \_\_\_\_\_

Account/Parcel Number \_\_\_\_\_ Tract \_\_\_\_\_ Owner Code \_\_\_\_\_

B. Owner Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

C. Manager Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

D. Send information to: Owner \_\_\_\_\_ Manager \_\_\_\_\_

E. Date Titled Acquired: (Purchase or Transfer) \_\_\_\_ / \_\_\_\_ / \_\_\_\_

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

Name	%	Name	%
_____	_____	_____	_____
_____	_____	_____	_____

G. Total number of residential units on the property: \_\_\_\_\_

H. Type of Building:  Single Family Dwelling  
 Duplex  
 Rooming House  
 Apartment Building  
 Combined commercial and residential units  
 Other: \_\_\_\_\_

**Reminder:** If you move, change the exempt status, change managers or sell the property, you must notify the Rent Stabilization Board in writing within sixty (60) days.

**PART II. RENT HISTORIES, DEPOSITS AND HOUSING REPAIRS** The following information must be submitted for each unit. If you do not know the answer to one of the items, you should submit a **Request for Review of Rent Registration Status**. The Board will review the request and determine if the property is properly registered without the requested information. If a question does not apply, please write "N/A".

A. Apt or Unit #	_____	_____	_____	_____	_____
B. # of Bedrooms (Studio = 0)	_____	_____	_____	_____	_____
C. Check if Kitchen	_____	_____	_____	_____	_____
D. Amount of Deposits	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
E. Date first rented	____ / ____ / ____	____ / ____ / ____	____ / ____ / ____	____ / ____ / ____	____ / ____ / ____
F. Rent on that date	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
G. Rent 6/6/78	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
H. Rent 12/30/79	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

I. Rent 5/31/80 OR	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
J. *Rent 12/31/81	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

\*if formerly exempt owner-occupied triplex or fourplex.

**HOUSING SERVICES**

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

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

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

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

Signature \_\_\_\_\_ Date \_\_\_\_\_

- **Withholding Rent**

**PETITION FOR RENT WITHHOLDING FOR FAILURE TO REGISTER**

**General Information**

The Rent Stabilization Ordinance requires landlords to file a completed registration statement and pay an annual registration fee for every unit that is being rented or is available for rent for residential use, unless specifically exempted. Exemptions are found in B.M.C. section [13.76.050](#) and [Regulation 508](#). (Go to [Exemptions](#) for a description of the units exempt from registration.) A tenant who resides in a unit that is subject to the Ordinance's registration requirements but is not properly registered may petition the Board for authorization to withhold rent until the property is registered. [Chapter 15](#) of the Regulations covers rent withholding petitions.

**Completing the Petition**

First, consult with Rent Board staff about the status of your unit. If it appears that the property in which you live is subject to rent control and not properly registered, complete the [Petition for Rent Withholding](#) (links to a [PDF](#) file). All petitioners must sign the declaration in Section G. See [The Petition Process](#) for further filing instructions.

### **Processing the Petition**

The Board will schedule a hearing before a hearing examiner. Hearings on rent withholding petitions are conducted in accordance with the regulations governing Individual Rent Adjustment petitions ([Regulations 1221 - 1259](#)), as long as they don't conflict with regulations governing rent withholding petitions. ([Regulation 1506](#).) See [The Petition Process](#) for information about hearings.

The parties to a rent withholding petition alleging a failure to register are the petitioning tenant, the landlord, and the Rent Board, as represented by administrative staff. Board administrative staff will research the property's registration status and prepare a report of the results of this investigation. The report will be mailed to the parties at least five days prior to the hearing on the petition. Be advised that the petition process may continue even if the petitioner requests dismissal of the petition or fails to appear at the hearing, and that the parties cannot enter into a settlement agreement. ([Regulations 1501 - 1503](#).)

### **Dismissal of Petition upon Proper Registration**

If, before the hearing date, the landlord properly registers the property, the hearing examiner will dismiss the petition and notify all parties of the dismissal. ([Regulation 1528](#).)

### **Following the Hearing**

If the hearing examiner determines either that the property is properly registered or that it is exempt from registration, she or he will issue a decision denying the petition and explaining why. Rent withholding will not be authorized in such cases.

If the hearing examiner determines that the rental property is subject to registration but not properly registered, she or he will issue a decision ordering the landlord to register the property, and authorizing the tenant(s) to withhold future rent beginning with the next regularly scheduled rent payment after the **effective date** of the order. The effective date of the rent withholding order is 35 days following the date Board staff mails the hearing examiner's decision. The rent withholding order does not become effective if, within the 35 days, the landlord registers the property or files an [appeal](#). The filing of an appeal stays (delays) the effective date of the rent withholding order. ([Regulation 1529](#).)

If the petitioning tenant moves out before the hearing examiner issues a decision, but the property is not properly registered, the hearing examiner will issue a decision ordering the landlord to register, and dismiss the request for rent withholding as moot.

If the order to withhold rent becomes effective, the tenant must deposit rent into an escrow account maintained by the Board. When the landlord properly registers the property, the hearing examiner will issue a compliance decision dissolving the rent withholding order, and ordering the disbursement of any monies in escrow. If the landlord registers the property within 60 days of the effective date of the order, the tenant and the landlord will each receive one-half of the funds in escrow. If the landlord fails to register the property within 60 days, all funds in escrow will be disbursed to the tenant, and the tenant will remain entitled to withhold rent until the landlord properly registers the property. ([Regulations 1531, 1532.](#))The compliance decision becomes effective 10 days after the date the Board mails it to all parties, unless a tenant requests a [compliance hearing](#) within that time. If a compliance hearing is not requested, the tenant must resume regular rent payments beginning with the next regularly scheduled rent payment due. In addition, if the tenant withheld rent but did not comply with an order to pay it into escrow, the tenant must pay the withheld rent to the landlord. ([Regulation 1530.](#))