

RESOLUTION 09-04

AUTHORIZATION TO PASS THROUGH TO CERTAIN TENANTS A PORTION OF 2009's REGISTRATION FEE AS A TEMPORARY GENERAL ADJUSTMENT OF RENT CEILINGS AND HAVE STAFF DEVELOP A MECHANISM THAT ALLOWS LOW-INCOME TENANTS (AT 40% OF AMI) TO BE REIMBURSED FOR ANY PASS - THROUGH

BE IT RESOLVED by the Rent Stabilization Board of the City of Berkeley as follows:

WHEREAS, the Rent Stabilization Board operates on the basis of a fiscal year and each year adopts an operational budget after public review and input; and

WHEREAS, Section 123 of Article XVII of the Charter of the City of Berkeley provides that the Rent Stabilization Board shall finance its reasonable expenses by charging landlords annual registration fees in amounts deemed reasonable by the Board; and,

WHEREAS, the Rent Board has reviewed the overall budget priorities for next fiscal year and recommends an overall spending level not to exceed \$3,916,000 for Fiscal Year 2010; and,

WHEREAS, the Executive Director and Rent Stabilization Board believe that recurring annual revenues of \$3,835,000 in FY 2010 will be necessary to meet the Program's operating needs and it will require an annual registration fee of \$194 per unit; and,

WHEREAS, Sections 6.N and 8.K of the Rent Stabilization Ordinance authorize the Rent Board to approve passing a portion of annual registration fees along to tenants as a general rent adjustment; and

WHEREAS, since the adoption of statewide vacancy decontrol, rent levels have been set using two different standards; and

WHEREAS, since 2004, the Rent Stabilization Board found that it would be fair and equitable in view of the purposes of the Rent Ordinance to pass along to tenants part of the increase in fees as a temporary adjustment of rent ceilings; and,

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WHEREAS, 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 and therefore, increases to the registration fee presumably have been factored in to the rent charged; and

WHEREAS, approximately 20% of the rental units in the City have a tenancy that began prior to January 1, 1999, when vacancy decontrol came completely into effect; and

WHEREAS, the Board has attempted to guarantee that owners of these units continue to receive compensation for actual increased costs, such as adjustments to the registration fee; and

WHEREAS, the Rent Stabilization Board finds that it would be fair and equitable in view of the purposes of the Rent Stabilization Ordinance to continue to pass along to certain tenants a portion of the 2009 registration fee as temporary general adjustments of rent ceilings; and

WHEREAS, the Board also understands the financial hardships experienced by tenants living at 40% or less of Area Median Income (AMI), who have to pay the pass-through and wishes to mitigate these hardships; and

WHEREAS, the Board has unclaimed overcharge money available in the AEPHI Lawsuit Settlement Fund designated under Regulation 1271 (B) for programs that benefit low- and/or moderate-income tenants.

NOW, THEREFORE BE IT RESOLVED that for each rental unit in which the tenancy began prior to January 1, 1999, for which a full registration fee is paid for Fiscal Year 2010, the landlord may, by serving legal notice pursuant Civil Code section 827, increase the rent by up to \$4.00 a month for twelve consecutive months, provided, however, that this partial registration fee pass-through shall not be considered part of the permanent rent ceiling for purposes of calculating the 2009 Annual General Adjustment; and,

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BE IT FURTHER RESOLVED that this twelve month temporary general adjustment of up to \$4.00 may not be imposed prior to July 1, 2009 and, regardless of when first collected, shall terminate no later than December 31, 2010, unless extended by further Board action; and,

BE IT FURTHER RESOLVED that the maximum increase shall not result in a pass-through greater than a \$4.00 per month and notice to tenants of any pass-through shall be on a form provided by the Board or use language approved by the Executive Director; and

BE IT FURTHER RESOLVED that the Board instructs the Director to develop a program that allows low-income tenants with a household income at 40% or less of AMI to be reimbursed for any pass-through they incur from funds held by the Board that are committed under Regulation 1271 (B) to be for the benefit of low-income tenants.

Dated: May 4, 2009

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

Yes: Drake, Harrison, Shelton, Townley, Tregub, Stephens

No: None

Abstain: None

Absent: Blake, Chong, Webster

Lisa Stephens, Chairperson
Rent Stabilization Board

Attest: _____
Jay Kelekian, Executive Director