

To: Honorable Members of the Berkeley Rent Stabilization Board

From: Commissioners Harr and Simon-Weisberg

Date: January 19, 2017

Re: Discussion and Possible Action Regarding Short Term Rentals Ordinance

On Tuesday the Berkeley City Council will review two proposed drafts of an ordinance legalizing some Short Term Rentals. The primary differences between the two drafts are summarized in the report from the Planning Director which is included with Item 41b:

Chapter 23C.22 as revised would eliminate the “grandfather” provision under which ADUs that had already been used for Short-Term Rentals could continue to be so used. Instead, it would prohibit Short-Term Rentals in any ADUs except existing ADUs that are not used for long term rentals.

Chapter 23C.22 allows Accessory Buildings (and ADUs that may be used for Short-Term Rentals) to be used for Short-Term Rental for 365 days in a year as long as the Host is present on the parcel.

BACKGROUND:

The Rent Board has carefully examined issues surrounding Short Term Rentals through the Ad-Hoc Committee on Short Term Rentals, numerous discussions at the full Board, and with some Council members via the 4x4 Committee.

Throughout the process the Board has emphasized 1) Our concern for loss of housing and increased pressure on rents that results from using housing for vacationers and other short-tern guests. 2) Our concern that any new laws harmonize with the Rent Ordinance and be easy to enforce.

RECOMMENDATION:

That the Rent Stabilization Board:

1. Take a careful look at the new draft, consider any input from our staff, and
2. Empower a Commissioner to immediately send any concerns regarding either draft, or the new law regarding use of Accessory Buildings as STRS, resulting out of today’s discussion to the full City Council as soon as possible and no later than 9 am Monday January 23rd.

Possible issues the Rent Board may wish to identify include:

- ▶ Concern that, although stated purpose of the ordinance is to “*prevent long-term rental units from being replaced with Short-Term Rentals*” and the summary says that only “*existing ADUs that are not used for long term rentals*” will be allowed to be used as STRs, the language in 23C.22.020 Section D may not be sufficient to achieve that purpose, because it assumes that all ADUs that have a rental history will be registered with the Rent Board.
- ▶ That allowing any ADUs to be STRs would complicate enforcement efforts.
- ▶ Concern that the STR Ordinance as drafted does not adequately define the host’s residence as a primary residence, and may leave openings for a host to claim they are living at an address while they are not actually sleeping on the property.
- ▶ That allowing elaborate cooking facilities in Accessory Buildings may make them unsafe for guests.
- ▶ That allowing unlimited rental of Accessory Buildings which do not “contain a kitchen” but do contain “space used for preparation of food that contains at least a sink, a refrigerator of no less than 10 cubic feet, and either a cooktop and an oven, or a range.” does not adequately protect current long-term but unpermitted rental units in garages and outbuildings from being converted to STRs.
- ▶ Questions about remedies and penalties.

Attachments:

- 1) Council Item 41a for January 24, 2017: Earlier Draft for Second Reading
- 2) Council Item 41b for January 24, 2017: New Draft for First Reading
- 3) Council Item 42 for January 24, 2017: Definition of Kitchen
- 4) Previous Communications from the Board: August, 2015 letter to the Planning and Housing Commissions which also contains the May, 2015 communication to the City Council.
- 5) Proposed Letter to Berkeley City Council – TO BE DELIVERED