



4x4 Committee on Housing
City Council and Rent Board

4 X 4 JOINT COMMITTEE ON HOUSING CITY COUNCIL/RENT STABILIZATION BOARD

Wednesday, February 23, 2022 – 3:00 p.m.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE.

Pursuant to Government Code Section 54953(e)(3), City Council Resolution 70,030-N.S., and Rent Board Resolution 21-29, this meeting of the City Council and Rent Stabilization Board's **4 x 4 Joint Committee on Housing** (Committee) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Resolutions and the findings contained therein that the spread of COVID-19 continues to be a threat to the public health and that holding meetings of City legislative bodies in person would present imminent risks to the health and safety of the public and members of legislative bodies. Therefore, **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://us06web.zoom.us/j/89750806233?pwd=Q2lQMlVQZUJER2SGRqd0VrUGp6di82UT09>. 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: 897 5080 6233 and Passcode: 073996. 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 btran@cityofberkeley.info with the Subject line in this format: "PUBLIC COMMENT ITEM FOR 4 X 4 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 1:00 p.m. on the day of the Committee meeting in order to be included.**

Please be mindful that this will be a public meeting and all 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 DéSeana Williams, Executive Director of the Rent Board, at (510) 981-7368 (981-RENT). The Committee may take action related to any subject listed on the Agenda.



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AGENDA

4 X 4 JOINT COMMITTEE ON HOUSING CITY COUNCIL/RENT STABILIZATION BOARD

Wednesday, February 23, 2022 – 3:00 p.m.

1. Roll call
2. Land Acknowledgment Statement: *The Berkeley Rent Stabilization Board recognizes that the rental housing units we regulate are built on the territory of xučyun (Huchiun-(Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's landlords and tenants have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878 and since the Rent Stabilization Board's creation in 1980. As stewards of the laws regulating rental housing, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.*
3. Approval of the agenda
4. Public comment on non-agenda matters
5. Approval of January 11, 2022 Committee meeting minutes
6. Update on Measure MM registry expansion (Rent Board Staff)
7. Discussion regarding potential for adding more rent controlled units under CA Civil Code Section 1954.52(b) (requested by Vice-Chair Alpert)
8. Discussion regarding welfare exemption policy (requested by Chair Simon-Weisberg, see attachment)
9. Discussion and possible action to consider remedies for situations where landlords unilaterally change keyed entries to keyless entries and tenants are not able to use the new method of access (requested by Chair Simon-Weisberg)
10. Quick updates on previously discussed items
 - a. Update regarding Relocation Ordinance and suggested additions from previous discussion regarding Tenant Habitability Plan Ordinance
11. Adjournment

COMMITTEE MEMBERS:

Mayor Jesse Arreguín

City Councilmember Kate Harrison

City Councilmember Rigel Robinson

City Councilmember Terry Taplin

Rent Board Chairperson Leah Simon-Weisberg

Rent Board Vice-Chairperson Soli Alpert

Rent Board Commissioner Xavier Johnson

Rent Board Commissioner Andy Kelley



4x4 Committee on Housing
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4 X 4 JOINT COMMITTEE ON HOUSING CITY COUNCIL/RENT STABILIZATION BOARD

Tuesday, January 11, 2022 – 3:00 p.m.

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City Council and Rent Board

4 X 4 JOINT COMMITTEE ON HOUSING CITY COUNCIL/RENT STABILIZATION BOARD

Tuesday, January 11, 2022 – 3:00 p.m.

Minutes To Be Approved

- Roll Call: Mayor Arreguín called the meeting to order at 3:03 p.m.
Present: RBC Alpert, Mayor Arreguín, CM Harrison (logged off at 5:06 p.m.), RBC Johnson, RBC Kelley, CM Robinson, RB Chair Simon-Weisberg, CM Taplin.
Absent: None.
Staff present: Matt Brown, Lief Bursell, Angie Chen, Nate Dahl, Stefan Elgstrand, Margot Ernst, Jen Fabish, J.T. Harechmak, Jordan Klein, David Lopez, Matthew Siegel, Be Tran, DéSeana Williams.
- Approval of the Agenda: M/S/C (Robison/Johnson) Approve the agenda as written. YES: Alpert, Arreguín, Harrison, Johnson, Kelley, Robinson, Simon-Weisberg, Taplin; NO: None; ABSTAIN: None; ABSENT: None. Carried: 8-0-0-0.
- Public Comment on Non-Agenda Matters: One speaker (who spoke on a non-agenda matter following item 6.)
- Approval of October 27, 2021 Committee Meeting Minutes: M/S/C (Harrison/Alpert) Approve the minutes as written. YES: Alpert, Arreguín, Harrison, Johnson, Kelley, Robinson, Simon-Weisberg, Taplin; NO: None; ABSTAIN: None; ABSENT: None. Carried: 8-0-0-0.
- Introduction of New Executive Director of the Berkeley Rent Stabilization Board: DéSeana Williams: RBC Simon-Weisberg introduced Ms. Williams, who made brief comments and was welcomed by committee members.
- Discussion of Relocation Ordinance and Possible Amendments (Vice Chair Alpert): Vice Chair Alpert introduced the item. Nathan Dahl from the Health, Housing, and Community Services Department, and David Lopez and Jordan Klein from the Planning Department offered perspectives on current administration practices. The committee discussed, amongst other things, clarifying who can trigger the Ordinance and tenant appeal rights. Staff will meet to discuss these and other issues raised during the discussion. The committee requested a memorandum in follow-up.

There was one public speaker on this item, who also spoke on a non-agenda matter.

7. Evaluation of City Laws Affecting Tenants During Construction and Suggested Additions from Tenant Habitability Plan Ordinance (Presentation and Memo from Mayor Arreguín and Chair Simon-Weisberg): Mayor Arreguín and RB Chair Simon Weisberg presented. The committee discussed the potential of a local Habitability Plan Ordinance, and intersections with previously discussed Relocation Ordinance issues. Rent Board staff attorney Matthew Siegel proposed possible pathways forward. The committee discussed a working group approach, and will prepare a recommendation for Council to be voted on by the committee at the next meeting. Rent Board General Counsel Matt Brown offered support from the Rent Board's legal unit in preparing the item.

There was one public speaker.

8. Establish 2022 Meeting Dates: The committee agreed by consensus to continue meeting on the fourth Wednesday of each month at 3:00 p.m. The next meeting is scheduled for February 23.
9. Quick Updates on Previously Discussed Items: There were no updates and no public speakers.
10. Discussion of Possible Future Agenda Items
 - a. Elevator Ordinance Update (requested by Chair Simon-Weisberg)
 - b. First in Time Standard Update Related to Source of Income Ordinance (requested by Kelley)
 - c. Discussion on Potential for Adding More Rent Controlled Units Under CA Civil Code Section 1954.52(b) (requested by Alpert)

CM Harrison requested a Measure MM update, if not at the February meeting then in March. The committee asked for an update on Demolition Ordinance Amendments. RBC Alpert requested an update on the discussions staff have related to item 6.

11. Adjournment: M/S/C (Arreguín/Robinson) Motion to adjourn. YES: Alpert, Arreguín, Johnson, Kelley, Robinson, Simon-Weisberg, Taplin; No: None; Abstain: None; ABSENT: Harrison. Carried: 7-0-0-1. The meeting adjourned at 5:10 p.m.

COMMITTEE MEMBERS:

Mayor Jesse Arreguín	Rent Board Chairperson Leah Simon-Weisberg
City Councilmember Kate Harrison	Rent Board Vice-Chairperson Soli Alpert
City Councilmember Rigel Robinson	Rent Board Commissioner Xavier Johnson
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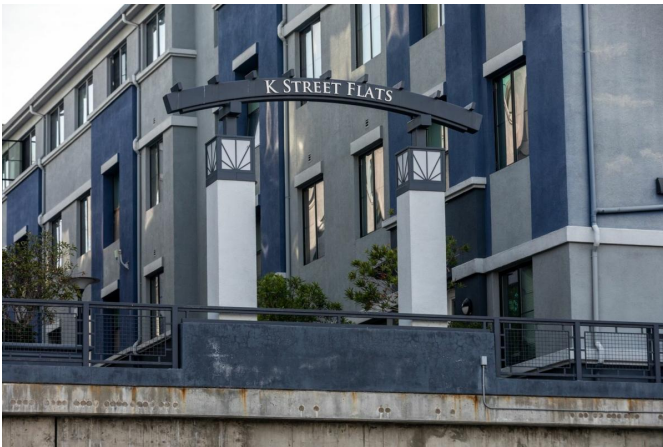
Berkeleyside

HOUSING & DEVELOPMENT

Site of Berkeley balcony collapse sold, with promise of affordable housing

K Street Flats was quietly purchased last fall by an obscure Central Valley housing agency that owns several Bay Area apartment buildings.

By Nico Savidge, Feb. 13, 2022, 8 a.m.



The K Street Flats apartment complex at 2020 Kittredge St. was quietly purchased last fall by a housing agency in the Central Valley that converts market-rate apartments to “missing middle” affordable housing. Credit: Kelly Sullivan

The downtown Berkeley apartment complex where six Irish students [died in a 2015 balcony collapse](#) has quietly become part of an emerging and controversial affordable housing strategy.

K Street Flats, the 176-unit development [formerly known as Library Gardens](#), was sold last fall to an obscure public agency based in the Central Valley that pledges to provide housing for workers who are often priced out of expensive cities such as Berkeley.

Called the [California Community Housing Agency](#), or CalCHA, it uses municipal bonds to buy market-rate apartment buildings, then offers rent discounts to make their units affordable to tenants who fall into the “moderate” income range — a category that in Berkeley includes some who make upwards of \$100,000 per year. The agency is one of three joint powers authorities that

have [bought dozens of buildings around the state](#) in recent years to provide “missing middle” homes for teachers, firefighters and others who can’t afford market-rate apartments, but make too much to qualify for lower-income units that are often the focus of efforts to build affordable housing.

“It’s solving for a failure of the market right now to deliver the housing that we wish was getting built,” Ben Metcalf, managing director of the [Turner Center for Housing Innovation](#) at UC Berkeley, said of the agency’s strategy.

The Berkeley City Council [voted to join CalCHA last year](#). As a result, the city could one day own K Street Flats — governments that partner with the agency have the option to acquire its buildings during the latter half of the 30-year bonds used to fund their purchases.

Rents at the 2020 Kittredge St. complex have fallen since the new owners took over. But Metcalf and others say it’s [not always clear that cities get a good deal](#) from their partnerships with CalCHA, because its discounts come at the cost of removing apartment buildings from local property tax rolls.



K Street Flats tenant Alex Merenkov shared this 2021 photo of a partially collapsed floor in another tenant's apartment. Credit: Alex Merenkov

And then there's the question of whether Berkeley should take over one of the city's most notorious buildings — a structure where [defects in the construction of its balconies](#), which led to the deadly collapse, prompted state regulators to [revoke the license of the contractor](#) who built it.

The tragedy also led to new state laws [requiring inspections of balconies](#) and [expanding access to contractor records](#), and a plaque honoring the six people who died in the collapse [now stands in Civic Center Park](#). An informal chalk memorial also occupies a patch of the sidewalk outside K Street Flats, and includes a seventh name — Aoife Beary, who was seriously injured in the 2015 collapse and [died at 27 in January following a stroke](#).

Problems at the complex, which was completed in 2007, have continued over the years, according to long-time tenant Alex Merenkov, who has complained to city officials about a range of issues with the building,

including the partial collapse of another renter's bedroom floor last spring.

"None of us know to what degree this property is going to hold up," Merenkov said. "If I was the city, I would probably not buy this property."

New owner cuts rent for moderate-income tenants

CalCHA is officially part of the government of Kings County, but many of the properties it owns are far from the agency's headquarters in Hanford. Since 2019, it has bought apartment buildings in Larkspur, Sausalito, Dublin, Santa Rosa and other Bay Area cities.

Metcalf said CalCHA and two other entities, the [California Municipal Finance Authority](#) and the [California Statewide Communities Development Authority](#), have emerged as players in the state's housing landscape over the past three years. Their purchases "really took off" in 2021, Metcalf said, when historically low-interest rates made their tax-exempt municipal bonds especially attractive.

CalCHA bought K Street Flats from the real estate investment firm BlackRock, which had owned it since 2007.

The Kings County Board of Supervisors, which functions as the agency's board of directors, approved the deal to buy K Street Flats at an Aug. 31 meeting that lasted less than three minutes; CalCHA announced its purchase in a [one-sentence press release](#) on Oct. 7, stating it had partnered with a firm called [HCF Development](#) to issue \$127 million worth of bonds for the acquisition. [Real estate news website The Registry](#) reported the complex sold for \$100 million.

Current tenants may stay as long as they wish under CalCHA's ownership, and the sale doesn't affect existing below market rate units, which make up 20% of K Street Flats' apartments. As tenants move out and the complex's formerly market rate apartments turn over, though, income caps require that new renters make between 80% and 120% of area median income. Berkeley's area median income is just over \$95,000, so that range covers individuals earning anywhere from \$77,000 to \$115,000 annually.



A small, informal memorial to the victims of the 2015 balcony collapse occupies a patch of pavement outside K Street Flats, the site of the tragedy. A seventh name was added to the memorial when 27-year-old Aoife Beary, who was injured in the collapse, died in January. Credit: Kelly Sullivan

[K Street Flats' website](#) today lists one- and two-bedroom units available to rent from \$2,342 to \$2,999 per month. Two blocks away, studio units at Varsity Berkeley, a complex that opened in 2015, [start at \\$3,200 per month](#); five years ago, [Berkeleyside reported](#) rents at K Street Flats ranged from \$2,995 to \$4,000 per month.

No one from CalCHA or HCF Development, which lists a Washington, D.C., phone number on its website, responded to multiple requests for comment from Berkeleyside.

City of Berkeley officials declined an interview request for this story. But in response to written questions, senior community development project coordinator Mike Uberti described CalCHA's acquisition strategy as a complement to more conventional efforts to build new affordable housing — which can often be a long and expensive process. In 2019, the Bay Area Council Economic Institute estimated that building affordable housing in Alameda County [cost more than \\$700,000 per unit on average](#).

“Typically, it is less costly and takes less time to acquire and convert market rate units to affordable than it does to construct new affordable units,” Uberti wrote in an email.

The challenge for cities such as Berkeley is that state and federal funding sources, which typically help them

build new affordable housing, often can't be used to acquire existing buildings, Uberti said.



Alex Merenkov, a tenant at K Street Flats for over a decade, said he has watched the building deteriorate under several property management companies. Merenkov said he hopes its new owners, the California Community Housing Agency, will be better landlords. Credit: Kelly Sullivan

CalCHA, on the other hand, arranges and finances its own deals, allowing cities to boost their supply of affordable units without having to put up the money to buy or build them. Then, starting in year 16 of the bonds, the city can acquire the property by taking over its outstanding debt — which, according to Uberti, can be paid off with rental income.

“This model is an alternative way to defer costs on a large property that the city could not otherwise acquire with current upfront funding costs and obligations,” he wrote.

Key question: What makes a good deal?

Cities aren't getting affordable housing for free when they partner with CalCHA, however. County records show K Street Flats was assessed more than \$1.4 million in property taxes last year. Now that the building is considered affordable housing, that bill will go down to zero.

A [Forbes investigation into CalCHA's practices](#) last year called attention to its purchases of amenity-rich luxury apartment complexes in other Bay Area cities, questioning “whether the often-modest rent discounts

being offered to middle-income tenants will ever make up for the lost tax revenue.” Joint powers authorities such as CalCHA, Forbes wrote, often function as “shell companies that are run by a handful of financiers and lawyers.” And while the investigation did not specifically examine K Street Flats — which lacks the saltwater pools or yoga studios that attracted scrutiny at other CalCHA buildings — it noted the agency’s deals have netted millions of dollars in fees paid to firms involved in buying and managing its real estate portfolio.

There is little state oversight of CalCHA and other entities like it, Metcalf said, and few standards for evaluating “what makes a good transaction” as they buy up more properties. The question, he said, comes down to whether the rent discounts are deep enough to accomplish the goal of housing middle-income tenants, and are worth forgoing the building’s property tax revenue.

“You want to know that this has some actual benefit,” said Metcalf, who declined to comment specifically on the K Street Flats purchase. “If those rents are now affordable to somebody who is squarely a moderate-income household, that’s pretty encouraging.”

In his written comments, Uberti emphasized the value of K Street Flats’ rent discounts is likely to grow over time.

“This acquisition will allow rents to be tied to incomes rather than the market, which has historically [risen] faster than incomes,” he said.

Still, Metcalf said that for now, “Every city is having to do this public benefit test for themselves.”



Tenant Alex Merenkov pointed out trash and grime in a stairwell at K Street Flats in January. Credit: Kelly Sullivan

As for Merenkov, the K Street Flats tenant, he hopes the new owners can turn the troubled building around — but after more than a decade there, he isn’t optimistic.

Merenkov described Sequoia Equities Incorporated, a Walnut Creek property management firm CalCHA contracted with to manage the complex, as “slightly better” than the revolving door of companies he dealt with in the past, who he accused of harassing him and other below market rate tenants. Still, Merenkov rattled off a long list of complaints about K Street Flats’ condition, ranging from a recurring cockroach problem in his unit to warped floors and poorly secured entryways that allow for package thefts and other problems. Sequoia Equities Incorporated did not respond to multiple requests for comment.

“We haven’t really seen anything happen” since CalCHA bought the building, he said.

Tenants have heard new property managers promise improvement before, Merenkov said, but “we don’t know to what degree that’s a bunch of BS.”

Nico Savidge is Berkeleyside's senior reporter covering city hall. Email: nico@berkeleyside.org. Twitter: NSavidge.