



Rent Stabilization Board

June 10, 2015

To: Immanuel Bereket, Associate Planner, Planning and Development Department

From: ^{JK} Jay Kelekian, Executive Director

By: Lief Bursell, Associate Management Analyst

Subject: **2631-37 Durant Avenue**

On April 3, 2015 you contacted Mr. Bursell regarding a pending application to demolish an existing three-story, 13,908 square foot apartment building with eighteen (18) residential units and build a new five-story building with fifty-six (56) dwelling units. As part of the process of reviewing these applications there is the issue of whether the existing property contains any "controlled" rental units.

Property History

2631-37 Durant Avenue is listed as being owned by "OPHCA LLC" with a purchase date of June 19, 2012. RealQuest lists the property as a two-story, multi-family dwelling.

Rent Board records reflect that the property contains eighteen (18) residential units with following addresses: 2631 Durant Ave. #107-#109 and #207-#209; 2633 Durant Ave. #105-#106 and #205-#206; 2635 Durant Ave. #103-#104 and #203-#204; and 2637 Durant Ave. #101-102 and #201-#202. All eighteen dwelling units were rented or available for rent from the inception of rent stabilization in 1980, until June of 2014. On June 1, 2014 the current property owner submitted a claim that all units were "not available for rent".

City of Berkeley records indicate that the structure at 2631-37 Durant Avenue was built in 1925 for use as an eighteen (18) unit apartment building. There are no records indicating that any changes have been made to the total number of dwelling units since the building was first constructed.

Application Review

In determining whether a residential unit is "controlled" or not, our office looks not just to the current status of the unit but also its history. The Rent Stabilization Program currently has over 7,000 units listed as "exempt." In most cases the exemption only partially exempts the unit from controls and protections articulated in the Ordinance. Furthermore, a vast majority of these

“exemptions” change on a yearly basis. For instance, a unit currently listed as “rent-free” will become rented and thus lose its partial exempt status. The same is true for units listed as “vacant” or “owner-occupied.”

The dwelling units at 2631-37 Durant Avenue have a history of being rented and fully subject to the Rent Stabilization Ordinance and therefore are “controlled” rental units. The proposed demolition would eliminate eighteen (18) dwelling units that are part of Berkeley’s older and more affordable rental housing the stock. The Demolition Ordinance requires that the ZAB make additional findings that ensure the loss of rent controlled units are mitigated through the creation of permanently affordable rental housing.

Loss of Affordability

Both the Planning Department and the applicant have requested input from Rent Board staff on the proposed elimination of the existing dwelling units. The Rent Board’s primary concern with any proposed development that involves the demolition of rental units is the level of affordability of the replacement units and that there is not a loss of tenant protections. The applicant’s current proposal is to maintain the first twenty units under rent control and to create one permanently affordable unit available to a very low income household.

Rent Board records show that the existing units had the following rent ceilings in 2014:

Rent Ceilings for 2631 Durant Avenue

Unit Address	Bedrooms	2014 Rent Ceiling
2631 DURANT AVE #107	1	\$1,017.00
2631 DURANT AVE #108	2	\$1,500.00
2631 DURANT AVE #109	1	\$800.00
2631 DURANT AVE #207	1	\$1,137.72
2631 DURANT AVE #208	2	\$1,500.00
2631 DURANT AVE #209	0	\$1,111.77
2633 DURANT AVE #105	1	\$1,000.00
2633 DURANT AVE #106	2	\$1,500.00
2633 DURANT AVE #205	1	\$1,000.00
2633 DURANT AVE #206	2	\$1,500.00
2635 DURANT AVE #103	1	\$1,000.00
2635 DURANT AVE #104	2	\$1,500.00
2635 DURANT AVE #203	1	\$1,000.00
2635 DURANT AVE #204	2	\$1,500.00
2637 DURANT AVE #101	2	\$1,500.00
2637 DURANT AVE #102	1	\$1,000.00
2637 DURANT AVE #201	2	\$1,500.00
2637 DURANT AVE #202	1	\$1,000.00

Average 2014 market rents for units subject to rent stabilization was \$1250 for studios, \$1,595 for one bedroom units, and \$2,225 for two bedroom units. On average the units at 2631 Durant Avenue were rented at 65.8% of the average 2014 market rent.

Replacing eighteen relatively affordable units with new construction units would create a net loss of affordability. Market rents for new construction units are significantly higher than the market rent for rent controlled units in buildings built prior to 1980. Due to Costa Hawkins the replacement units would not be subject to the Rent Stabilization Ordinance, so in addition to paying much higher starting rents, tenants of these units would not be able to file petitions with the Rent Board for rent reductions or take advantage of any of the other services offered by the Rent Stabilization Program. While the owner may volunteer to limit rent increases to 65% of the consumer price index (similar to what is allowed under rent control), these units will be far less affordable and they will have fewer tenant protections than the existing rent-controlled units.

Rent Board staff recently met with a representative of the owner and indicated that the Rent Board has supported demolitions of "controlled" rental units in the past when a proposed development provided replacement unit with equal or greater affordability than the existing rent-controlled units. Several years ago, the Rent Board made a determination that helped a project at 3240 Sacramento Street receive approval because it met these criteria. Rent Board staff is willing to continue to meet with the applicant if there is an interest to modify the project so that the replacement building provides greater affordability than the existing "controlled" rental units.

Please feel free to contact Mr. Bursell with any further questions regarding this matter.