

TO: HONORABLE MEMBERS OF THE RENT STABILIZATION BOARD
FROM: HOUSING ADVISORY COMMISSIONER IGOR TREGUB
DATE: 6/17/2013

SUBJECT: FINDINGS AND RECOMMENDATIONS FROM MARCH 20, 2013 SEISMIC COMPLIANCE DAY OF ACTION

On March 20, 2013, a coalition of neighbors and students participated in the third annual Seismic Compliance Day of Action. This group included members of the Berkeley Tenant Union and the ASUC as well as other students interested in local public justice. Three groups inspected a portion of the buildings that are currently identified on the City of Berkeley Soft Story Building Inventory as definitively or potentially not in compliance with Phase I of the Soft Story Ordinance,¹ which has been in place since 2005.

We limited the scope of our review to buildings listed on the Inventory with the following designations: "out of compliance," "[engineering] report approved; still on inventory," "[engineering] report pending," and "[engineering] report approved."

Despite the number of properties on the list that are associated with an approved or pending engineering study and report, out of 20 properties we inspected, 10 did not appear to have posted warning signage, as required by B.M.C. 19.39.60(A)(2), as below:

Post in a conspicuous place within five feet of each main entrance of the building, and maintain until the building is removed from the Inventory, a clearly visible warning sign not less than 8" by 10" the following statement, with the first two words printed in 50-point bold type and the remaining words in at least 30-point type:

"Earthquake Warning. This is a soft story building with a soft, weak, or open front ground floor. You may not be safe inside or near such buildings during an earthquake."

What was more alarming is that none of the tenants we spoke with knew that their buildings were soft-story and prone to collapse in an earthquake. The United States Geological Survey predicts a 63% probability for a magnitude 6.7 or higher earthquake to strike the Bay Area before 2036; therefore, it is crucial for tenants to be informed that their building is soft-story in order for tenants to be prepared.

The following properties were those inspected in our walkthrough:

- 2412 Ellsworth Street – Not in compliance
- 2206 Haste St. – Unable to verify information

¹ Phase one requires building owners to notify residents of seismic hazards with warning signs and letters and to submit an engineering report of potential structural improvements.

- 2118 Channing Way – Not in compliance
- 2001 Channing Way – Determined to now be in compliance with Phase I
- 2007 Haste St. – Determined to now be in compliance with Phase I
- 2450 Milvia St. – Determined to now be in compliance with Phase I
- 2410 Dwight Way – Not in compliance
- 2500 Dana St. – Sign was present, but it was located near the fire exit and not in a conspicuous area as required by B.M.C. 19.39.60(A)(2)
- 2321 Dwight Way – Not in compliance
- 2609 Ellsworth St. – Sign was present, but it was covered by a plant and the text have been smaller than required by B.M.C. 19.39.60(A)(2)
- 2317 Blake St. – Determined to now be in compliance with Phase I
- 2172 Blake St. – Undergoing retrofit
- 2511 Hearst Ave – Determined to now be in compliance with Phase I
- 1717 Euclid Ave – Not in compliance
- 1526 Arch St – Not in compliance
- 2020 Cedar St – Determined to now be in compliance with Phase I
- 2225 Hearst Ave – Not in compliance
- 1826 Spruce St – Not in compliance
- 2235 Hearst Ave – Could not access building but no sign was visible
- 2317 Hearst Ave – Not in compliance

Our results demonstrate that although there is some improvement in the level of notice that property owners now provide, many tenants are still not informed that their lives might be at risk in case of an earthquake. The City of Berkeley should take a more aggressive approach in ensuring that the lives of tenants are protected. The ultimate goals of our walkthrough are (1) stronger local enforcement of Phase I (currently, nearly non-existent for budgeting and prioritization reasons) and (2) passage of Phase II of the Soft-Story Ordinance which would

require soft-story residential buildings to be retrofitted. The City should examine what other cities, such as San Francisco, Alameda, and Fremont, are doing in order to incentivize or mandate retrofitting.

We will continue our efforts to investigate other properties that appear on the Soft-Story Inventory, but would like to convey in the strongest possible terms that Berkeley residents should not have to be the ones to resort to this effort. **It is the City of Berkeley's responsibility to conduct effective enforcement of these properties.**

We appreciate the openness of the Berkeley Rent Stabilization Board in providing us with the most recent data, which allowed us to base our analysis upon up-to-date information.

Based on the results of our third walk-through, the following recommendations are reached:

- 1) Notify owners not in compliance with Phase I of the Soft Story Ordinance and enforce violations to this policy.
- 2) Expedite efforts to develop a Phase II of the Soft Story Ordinance that includes strong tenant protections.
- 3) Assess the feasibility of adding multi-family buildings with fewer than 5 units to the Soft Story Inventory.

A letter warning tenants that their landlord may not be in compliance with Phase I of the Soft Story Ordinance and educating them of points of contact in the City of Berkeley and disaster preparedness tips is included in Appendix A below.

Appendix A: Representative Photos from Walkthrough

Appendix B: Letter to Tenants in Affected Buildings

Appendix B: Selected News Articles from 2013 Seismic Day of Action

Appendix A



Appendix B

March 20, 2013

Is Your Landlord Compliant with Berkeley's Soft Story Ordinance for Seismically Unstable Buildings?

Dear Tenant,

This letter is provided to you by a coalition of neighbors and students who have today conducted a walk-through of buildings that are or have at one time been on the City of Berkeley's "Soft Story Building Inventory," meaning buildings that may not be safe in a severe earthquake.

Because we have been unable to locate the signage that is required by Berkeley law, your landlord may be in violation of Phase I of Berkeley Soft Story Ordinance that was passed in 2005. Namely, Section 60 of Berkeley's Municipal Code (B.M.C.) Chapter 19.39 states the following:

A. **Obligation of owners to notify tenants and post building.** Once the Building Official's determination [of whether the building is on the Soft Story inventory] is final, owners of buildings on this Inventory shall do the following:

1. Within 30 days, notify each tenant in writing ... and notify each new tenant at a change of tenancy, that the building is included on the Inventory.
2. Post in a conspicuous place within five feet of each main entrance of the building, and maintain until the building is removed from the Inventory, a clearly visible warning sign not less than 8" by 10" the following statement, with the first two words printed in 50-point bold type and the remaining words in at least 30-point type:

"Earthquake Warning. This is a soft story building with a soft, weak, or open front ground floor. You may not be safe inside or near such buildings during an earthquake."

3. Mail, within thirty days of service, a copy of each tenant notification form in compliance with this section and a completed proof of service addressed to: Building Mitigation Manager, Building and Safety Division, 2120 Milvia Street, Berkeley, CA 94704. Any tenant's name so provided shall be used by the City only for purposes of confirmation and shall be rendered illegible in the filed document.

B. **Obligations of tenants to cooperate.** Each tenant of a building on the inventory shall cooperate with the owner and the owner's agents, including but not limited to engineers, contractors, and inspectors, to accomplish the required analysis. In so doing, tenants shall allow reasonable access to the building and their unit or space as needed and as permitted by California Civil Code 1954.

If you do not recall being notified in accordance with B.M.C. Chapter 19.39.60(A) above, you are encouraged to contact the **City of Berkeley Building and Safety Division**, at (510) 981-7440, option 0, or buildingandsafety@cityofberkeley.info at your earliest convenience. Phase I of the Soft Story Ordinance was enacted into law eight years ago, and it is critical that your landlord is compliant with it.

The City of Berkeley is currently working to develop Phase II of the Soft Story Ordinance, which would require landlords to improve the safety of buildings on the Soft Story Building Inventory unless the *Letter Continued on Back*

landlord has demonstrated that the building's ground floor is not soft, weak, or open per B.M.C. Chapter 19.39 or the building has been substantially reconstructed in accordance with the 1997 or later Uniform Building Code. It is possible that your building does not meet these criteria, and therefore its ability to remain intact in a Richter magnitude 6.7 or greater earthquake, such as one predicted to occur within the next 30 years by the U.S. Geological Survey, may be in question. The development of Phase II of the Ordinance and your landlord's compliance with it is crucial to mitigating this risk. If you feel strongly about this issue, you may be interested in contacting the **Berkeley City Manager** and **City Council Members** at manager@cityofberkeley.info (510-981-7000) and clerk@cityofberkeley.info to urge the City to promptly develop a Soft Story Ordinance with strong landlord requirements for seismic retrofitting and tenant protections. For more information on **Berkeley's Soft Story Ordinance**, go to <http://www.ci.berkeley.ca.us/contentdisplay.aspx?id=622>.

Recent disasters (such as fires) have occurred in multi-unit apartment buildings in which numerous habitability violations have been alleged by residents. Bringing the building into compliance with applicable safety and habitability codes is important to reduce the risk incurred by tenants in an emergency. If you feel that habitability or life safety violations may exist in your building, or that your landlord is not fully responsive in addressing them, you are encouraged to contact the **City of Berkeley's Housing Enforcement Division** at (510) 981-5444 and request an inspection, or go to <http://www.ci.berkeley.ca.us/contentdisplay.aspx?id=4152> for more information.

The **Berkeley Rent Stabilization Program** exists to assist tenants in being fully aware of their rights if habitability deficiencies are suspected. If you have any questions, please contact 510-981-7368 (510-981-RENT) or go to www.cityofberkeley.ca.us/RENT/.

There are additional actions you can take right now to be prepared in case of a disaster. The City of Berkeley features a **Berkeley Emergency Notification System (BENS)** that allows the City to call residents at home to provide critical public information. To register for BENS, which works like a confidential 911 emergency system in reverse, call (866) 484-3264 or email unlisted@firstcall.net and provide your name, phone number, street address, city, state, and zip code. The **Berkeley Disaster Preparedness Neighborhood Network (BDPNN)** also recommends that you keep the supplies listed below at your apartment. **By the bed:** Flashlight, crowbar, emergency radio, good shoes/clothes; **Emergency food:** a supply good for at least 3-5 days; **Emergency water:** At least ONE gallon per person per day; **First Aid Kit;** **Fire Extinguisher** (ABC-type is best); **Lighting:** Additional flashlights, light sticks, or camping lanterns and extra light bulbs and batteries; **Cooking Devices;** **Sanitation Supplies;** **Shelter:** waterproof tarp, tent, sleeping bags, blankets, and/or towels; and **Clean-Up Tools:** axe, shovel, broom, heavy gloves. For more information, contact info@bdpnnetwork.org or go to www.bdpnnetwork.org.

We hope this letter has been helpful to make you aware of your rights. For more information about how you can take an active role in ensuring your safety and that of others in your building, please contact Jesse Townley at jt02@mindspring.com or Igor Tregub at itregub@gmail.com. **The co-authors of this letter are acting in their private capacities.**

Igor Tregub and Jesse Townley
Commissioners,
City of Berkeley

Shahryar Abbasi
External Affairs Vice President,
Associated Students of the
University of California (ASUC)

Spencer Pritchard
CalPIRG Berkeley

Leah Simon-Weisberg
Berkeley Tenants Union

Appendix C

Housing News

Thursday, March 14, 2013

Seismic safety worries city



Anthony Martinez/Staff

By [Mitchell Handler](#) | Staff
Last Updated March 14, 2013

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Igor Tregub called a soft-story building home when he was a student at UC Berkeley.

“Soft stories disproportionately affect students,” said Tregub, a commissioner on the city’s Housing Advisory Commission and Zoning Adjustments Board.

More than seven years ago, Berkeley enacted the Soft Story Ordinance to mitigate the dangers of buildings with structurally unsupportive ground levels. Currently, Tregub is planning his third seismic compliance day of action on March 20 to inform tenants about these dangers.

Hundreds of Berkeley properties meet the city’s soft-story definition — a wood-frame structure with five or more units and a ground level containing large openings like storefronts, garages or tuck-under parking.

Jennifer Strauss, external relations officer at the Berkeley Seismological Laboratory, compared soft-story buildings to houses on stilts.

“The large open spaces on the ground floor that are unreinforced cannot withstand lateral forces,” Strauss said. “When the ground shakes back and forth, they end up collapsing.”

The Bay Area has a 63 percent probability of a magnitude 6.7 or greater quake striking the Bay Area between 2007 and 2036, according to 2008 forecast from the United States Geological Survey. The Hayward Fault, which runs directly through Memorial Stadium’s end zones, is most likely to produce the damaging quake.

Although 104 buildings have been voluntarily retrofitted to better withstand earthquakes, 168 remain on the city’s inventory of soft-story buildings, according to Christina Franco, an office specialist at the city’s Planning and Development Department.

Phase one of the ordinance required building owners to notify residents of seismic hazards with warning signs and letters and to submit an engineer’s analysis of potential structural improvements. It does not, however, mandate retrofits — this was to be phase two.

“There have been delays because of bureaucracy,” said Rent Stabilization Board Commissioner Jesse Townley. “There’s always something shinier and more current to deal with.”

Currently, the Rent Stabilization Board has drafted the second phase, but the city needs to conduct more outreach to building owners before it can be put to a vote, said Berkeley City Councilmember Jesse Arreguin.

“It’s frustrating because this is a very important issue to people in our community,” Arreguin said. “Tenants’ lives are at risk.”

Although Afsaneh Mortazavi, a junior at UC Berkeley, is aware that her building is a soft story, it

has not discouraged her from living there.

“It probably should bother me more than it does,” Mortazavi said.

She jokingly doubted the usefulness of an earthquake-preparedness kit in her situation.

“We live in a soft-story building, so it won’t matter because we’ll be crushed anyway,” Mortazavi said. “Maybe if we’re standing next to the water, we can drink it when we’re under the rubble.”

Other tenants, however, remain uninformed of their building’s dangers. Last year, Tregub and a team conducted a walking tour of select soft-story properties and found seven of the 15 buildings inspected did not appear to have posted warning signs.

Nevertheless, Tregub hopes Berkeley will take more concrete action toward phase two — and soon.

“When we started this, it was an urgent issue, and since then, it has become an even more urgent issue,” Tregub said. “It would be terrible for the city to have blood on its hands if the unthinkable were to happen and we had not done our due diligence to prepare.”

Contact Mitchell Handler at mhandler@dailycal.org.

[East Bay News](#)



Berkeley residents warned on soft-story buildings

Wednesday, March 20, 2013 Tags:

[berkeley](#), [earthquake](#), [east bay news](#)





by Nick Smith

BERKELEY, Calif. (KGO) -- A group of Berkeley citizens and some elected officials went door-to-door Wednesday to hand out tips on earthquake preparedness. They also want to tell some tenants their buildings are not in compliance with city ordinances.

More than 75 percent of Berkeley's soft-story buildings surveyed in 2011 were not seismically retrofitted. Landlords say they're all for retrofitting but they need the city to be a partner in making it happen. Tenants want a safe but inexpensive place to live.

Soft story structures are buildings with large openings at ground level for garages or under-parking, constructed in the 1950's and 60's prior to update seismic codes.

"They are particularly susceptible to collapse in a magnitude 6.7 or larger earthquake," Berkeley resident Igor Tregub said.

The 1989 Loma Prieta earthquake remains on the minds of many. The magnitude 6.9 quake shook the Bay Area, killing 63 people. New building codes would work to prevent that amount of damage and loss of life from happening again.

Tregub has held official positions with the city of Berkeley, but Wednesday he was working in a personal capacity. He believes recent seismic activity in the East Bay highlights the importance of retrofitting Berkeley's apartment buildings before the next big quake. There has been a law on the books since 2005 for landlords with five or more units to notify tenants of the soft-story danger and have an engineer perform a seismic evaluation. But Tregub says many aren't moving fast enough.

"There is a subset of property owners who are not in compliance with that stage of the statutory ordinance," Tregub said.

The Berkeley Property Owners Association, which has more than 600 members, says they acknowledge the problem of seismic vulnerability from soft-story buildings, but as property owners they face challenges too -- single-purpose bank financing for capital improvement is hard to come by because banks still aren't lending and the association says the unavailability of rent increases under strict rent control is the biggest problem they face. They are unable to pass through some of the cost to sitting tenants.

"Berkeley rent is ridiculous as it is," renter Eduardo Joya said.

Caught in the middle are tenants who would like a safer building to live in but says that must take a backseat to affordability.

"I have rent control, I'm very fortunate to live in a place where I can afford it," Joya said.

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