

Berkeley Tenants Union

2022 Blake Street, Berkeley, CA 94704 | berkeleytenants.org | (510) 982-



Zoning Board Commissioners
re: 2631 Durant

June 25, 2015

Dear ZAB Commissioners,

BTU has been copied on multiple letters from members raising important points about this project, the public process, and the confusing laws governing demolitions. We will try to keep our points in this letter to things which have not been addressed in other member correspondence.

1) POSSIBLE TENANT HARASSMENT

BTU met tenant Nicole Yeheguzian in 2013 and she asked us to keep her up-to-date on the project. Her letter to you, as well as conversations we had with other tenants when two BTU leaders visited the building in 2013, coupled with the letters from renters that the developer included in his original application, show that vacancies may not have been voluntary.

All students were asked to "voluntarily" sign an agreement that they would move. Former student tenants may feel the same as Nicole, but it's summertime and they are away. As the ASUC said, maybe you should delay this hearing until students are back in town.

What 18 unit building one block from campus becomes completely empty? Owners should not profit from harassment or evictions.

2) Section 23C.08.010

ZAB can only approve a demolition if *"in addition to any other findings required by this Ordinance, it finds that the elimination of the dwelling units would not be materially detrimental to the housing needs and public interest of the affected neighborhood and the City."*

Staff argues that adding more units is for the public good. We hope ZAB Commissioners will look at this issue in greater depth.

Please remember that being covered by the Rent Ordinance confers many protections on renters beyond just limiting rent increases. Losing rent controlled units is not just a loss of regulated rents - renters in new buildings cannot avail themselves of the Rent Board at all. For example, like renters at Library Gardens, tenants in a new building could only complain to Berkeley's over-extended code enforcement staff and could not petition at the Rent Board if they have habitability issues.

Is it good for Berkeley to reward owners who damage their buildings?

Is it good for the City to allow demolition when buildings were not maintained?

Berkeley Tenants Union

2022 Blake Street, Berkeley, CA 94704 | berkeleytenants.org | (510) 982-



Is it green to demolish an existing building?

Is it better to have more tiny, expensive studio units instead of 18 affordable, rent controlled one and two bedrooms?

3) Section 23C.08.030.E

"The Board may approve a Use Permit to eliminate a controlled rental unit if it makes all of the following findings: 3) The applicant cannot make a fair return on investment by maintaining the dwelling unit as a part of the rental housing market"

You do not have to approve this project even if you made this finding. You certainly cannot approve it based on this finding TONIGHT. There is inconsistent information in the record. There is information you need to make a good decision missing from the record.

Why are 2013 or 2015 rents used in the proformas?

Where do cost estimates in the proforma come from?

Current Property Investment: Is the owner justified in calculating his rate of return (Exhibit G) by calculating his full purchase amount as "Current Property Investment"? We have read that rates of return for real estate investments are usually calculated on the DOWNPAYMENT for the mortgage. Did the developer pay cash? Why is the amount for current investment higher than the purchase price?

Rehab Costs: The developer has provided a number of estimates for repairs - but seldom presents more than one bid. You should note that there are no details about how the cost of rehab at \$2,050,818 has been calculated. We added costs and came up with a different total:

| | |
|------------------------------------|------------------|
| Fisk Original Bid termites | 240,000 |
| Fisk more inspections | 57,000 |
| Higher roof bid | 42,200 |
| Fisk termite additional | 342,000 |
| Impact foundation | 32,000 |
| Impact, Bolting and walls, seismic | 28,000 |
| | \$741,200 |

We hope ZAB commissioners will disallow any costs for rehabilitation from damage allowed to be caused because the owners did not properly secure the building and allowed squatters. We hope ZAB Commissioners will disallow any costs for rehabilitation from damage allowed to be caused when the fire department was invited to tear out walls and chainsaw the roof.

Berkeley Tenants Union

2022 Blake Street, Berkeley, CA 94704 | berkeleytenants.org | (510) 982-



4) Section 23C.08.030.F

Discussion on other demolitions would indicate the ZAB may favor allowing demolition if the rent controlled units were replaced with affordable housing in the new building. Section F says the Board shall only approve elimination of rent controlled units if *"The replacement dwelling unit shall be available for occupancy to Households for Lower Income or Very Low Income Households."*

Regarding the new City Attorney letter in this case: we caution that the City Attorney is not a judge. We suggest you ask why, if section F does not apply to demolitions but only to conversions, that section has been discussed in staff reports on demolitions for years. We suggest you consider why the City Attorney is applying a new interpretation which *was suggested by the developer* to a law Berkeley has been using for many years.

● March 2, 2010

To: Steve Buckley, Principal Planner

From: Zach Cowan, City Attorney

Re: Appeal of AUP for 2412 Stuart Street

"we concluded that the rental removal provisions of former Chapter 19.56, which are now subdivisions E and F of Section 23C.08.030, were intended to overlay additional restrictions on the grant of any permit under former Section 15.1-1(c) (including section 23C.08.030.B) for elimination of a dwelling unit if that dwelling unit was —a controlled rental unit."

● June 18, 2009

To: Debra Sanderson, Land Use Planning Manager

From: Zach Cowan, Acting City Attorney

"This has raised the question whether the seven units to be demolished are considered "controlled rental units" for purposes of the BMC section 23C.08.030, subdivisions (E) and (F), which regulate demolition of "controlled rental units". BMC section 23C.08.030, subdivisions (E) and (F), require that certain findings be made in order to demolish a "controlled rental unit".

footnote #2

Subdivisions (E) and (F) originate in the "Rental Removal Ordinance" (Ord. No. 5626 – N.S.), formerly codified as BMC Chapter 19.56, and incorporated into the Zoning Ordinance in 1999 as part of section 23C.08.030."

● May 9 2013 Acheson Commons staff report

"H. Appeal Point #8: Removal of Rent Controlled dwellings. Per BMC Sections 23C.08.030.E & F, the Board may approve a Use Permit to allow the elimination of a controlled rental unit if it makes specific findings."

Berkeley Tenants Union

2022 Blake Street, Berkeley, CA 94704 | berkeleytenants.org | (510) 982-



- Staff report to Council on changes to Demolition Laws 6/4/2013

“FISCAL IMPACTS OF RECOMMENDATION

The proposed amendments will allow for clearer rules for demolition and clarify what number and type of replacement units are required for certain demolitions.”

We hope that you will postpone this hearing to get more information, to allow students to have input, and to send a clear message that scheduling two public meetings on issues related to Harold Way at virtually the same time does not serve the public interest.

Should you decide to move forward, we hope you will find this demolition is materially detrimental to the public good.

Sincerely,

Berkeley Tenants

Authorized by the BTU Steering Committee