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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF ALAMEDA**

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13 ALAN WOFSY & ASSOCIATES, a
California corporation (dba Hearst Commons)
14 on behalf of itself and all others similarly
situated,
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16 Plaintiff,

17 v.

18 CITY OF BERKELEY and BERKELEY
RENT STABILIZATION BOARD,
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20 Defendants.
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Case No. 23CV043503

ASSIGNED FOR ALL PURPOSES TO:
JUDGE BRAD SELIGMAN
DEPARTMENT 22

**EXHIBIT B TO JOINT CLASS NOTICE –
LONG FORM NOTICE**

Action Filed: September 11, 2023
Trial Date: April 7, 2025

1 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA IN THE COUNTY OF**
2 **ALAMEDA**

3 **NOTICE OF PENDING CLASS ACTION**

4 If you are an owner or have owned rental units in the City of Berkeley, a class action lawsuit
5 may affect your rights. This Notice is being provided by order of the Superior Court for the State of
6 California, in the County of Alameda. It is not a solicitation from a lawyer. You are not being sued.

7 A class action lawsuit is pending in the Superior Court for the State of California in the
8 County of Alameda. This lawsuit challenges registration fee imposed by the City of Berkeley’s Rent
9 Stabilization Board onto owners of rentals units in the City of Berkeley under a law called Measure
10 MM. The name of the case is *Alan Wofsy & Associates, dba Hearst Commons v. Berkeley Rent*
11 *Stabilization Board*, Case No. 23CV043503. Under Measure MM, owners of units have been
12 charged a fee of up to \$150 per unit. Plaintiffs allege that these fees are unconstitutional under
13 Article XIII C of the California Constitution. Plaintiffs challenge Measure MM because it was not
14 passed with a super majority of voters and it does not meet any of the constitutional exceptions that
15 would permit the Board to impose these fees without a super majority of votes.

16 Plaintiffs seek, among other things, (1) compensation for class members for any unlawful
17 Measure MM fees that they were required to pay and (2) a Court order prohibiting the Board from
18 furthering imposing Measure MM fees onto class members.

19 The Berkeley Rent Stabilization Board disputes these allegations and maintains that the
20 Measure MM fees it charges are constitutional and otherwise appropriate under the law.

21 The Court has not, however, rendered any opinion as to whether Plaintiffs or the Berkeley
22 Rent Stabilization Board are correct about the legal claims in the case. By establishing the Class and
23 issuing this Notice, the Court is not suggesting that the Plaintiff or the Berkeley Rent Stabilization
24 Board will win or lose this case. Plaintiff must prove the Class’s claims at a trial, which has not yet
25 occurred. The trial date has been scheduled for April 7, 2025.

26 The Court has appointed the law offices of Coblantz, Patch, Duffy & Bass LLP as class
27 counsel. No money or benefits are available now because the lawsuit is not resolved. There is no
28 guarantee that money or benefits ever will be available. If they are, you will be notified about how

1 to ask for a share of any recovery. Unless you exclude yourself or your business from the lawsuit,
2 you or your business will be bound by the outcome of the case and you will not be able to file a
3 lawsuit or be part of any lawsuit against the Board concerning or relating to the claims and
4 allegations that were or could have been raised in this lawsuit.

5 On October 21, 2024, the Court determined that Plaintiffs' claims against the Board could
6 proceed as a class action. There is no money available now and no guarantee there ever will be.
7 However, if you are a member of the certified classes as described in this Notice, your legal rights
8 and options are affected, and you have a choice to make now.

9 **LITIGATION CLASS DEFINITION:** The Court has certified a class of all persons who
10 currently own or have owned residential units in the City of Berkeley at any time from January 1,
11 2021, and are covered by Measure MM, subject to certain exceptions. Individuals who *only* owned
12 units that were not covered by Measure MM or only owned certain affordable-housing units that
13 were subject to a lowered, Measure MM fee are not part of the Court's class definition. Specifically,
14 the following categories of individuals are excluded from the class:

- 15 • Individuals who only owned units in affordable-housing projects, including those
16 managed through regulatory agreements under the City of Berkeley's Affordable
17 Housing Trust Fund Program;
- 18 • Individuals who only owned single-family homes or condominiums that are rented
19 for up to two years and: (1) owned no more than one residential unit in Berkeley; (2)
20 lived in the unit as your primary residence for at least 365 consecutive days
21 immediately prior to rental; (3) will reoccupy the unit as your primary residence
22 when the rental ends; and (4) specified the rental term, not to exceed 24 months, in
23 the lease;
- 24 • Individuals who only owned Section 8 or Shelter Plus tenancies; or
- 25 • Individuals who only owned units that they occupied, maintained for their own use,
26 or occupied rent free.

27 **YOUR LEGAL RIGHTS AND OPTIONS:** If you are a member of the class, you may take
28 one of two options in connection with this action

1 (1) Exclude Yourself: You may write to the Administrator, Berkeley Registration Fees
2 Notice Administrator, c/o Settlement Services, an Epiq Company, P.O. Box 2715, Portland, OR
3 97208-2715, by **March 15, 2025** to exclude yourself. If you ask to be excluded from this lawsuit
4 and money is later rewarded, you will not be allowed to request a payment. But you or your business
5 will keep your right to file your own lawsuit against the Board for damages concerning or relating to
6 the claims and factual allegations that were or could have been raised in this action.

7 (2) Do Nothing: If you do nothing, you (or your business) will be bound by the outcome of
8 the case, whether a judgment is rendered for or against the Board. Unless you exclude yourself (or
9 your business), you will not be able to file a lawsuit or be part of any other lawsuit asserting claims
10 against the Board concerning or relating to the claims and factual allegations that were or could have
11 been raised in this lawsuit.

12 **FURTHER INFORMATION REGARDING YOUR RIGHTS AND OPTIONS AND THE**
13 **DEADLINES TO EXERCISE THEM ARE EXPLAINED IN THIS NOTICE.**

14 **A. What is a class action and who is involved?**

15 In a class action lawsuit, one or more individuals or entities called “Class Representatives”
16 sue on behalf of other individuals or entities who have similar claims. That group of individuals or
17 entities is a “class” made up of class members. The Class Representatives that sued here—and all
18 the class members like them—are called the Plaintiffs. The individual or entity they sued are called
19 the Defendant. Class members may choose to exclude themselves from the class.

20 **B. What is the certified class, and how do I know if I am a class member?**

21 On October 21, 2024 the Court certified a class that includes “All persons who currently own
22 or have owned units to which Measure MM applies at any time from January 1, 2021, through the
23 present, excluding all persons exempt from Measure MM and all affordable housing projects
24 managed by a nonprofit with an operative regulatory agreement with the City of Berkeley through
25 its Affordable Housing Trust Fund program.”

26 Under this definition, you may be a class member if you are an owner of non-affordable-
27 housing rental units in the City of Berkeley and paid Measure MM fees from January 1, 2021 to the
28 present. As set forth in detail in the home page, owners who only owned affordable-housing units

1 or who owned units that are exempt from Measure MM are excluded from the class.

2 **C. What is the current status of the lawsuit?**

3 The lawsuit is pending in the Superior Court for the State of California in Alameda County
4 before Judge Brad Seligman. A trial in this action is currently scheduled for December 15, 2025.

5 **D. Is there any money available now?**

6 No money or benefits are available now because there has not been a trial and there is no
7 settlement. There is no guarantee that money or benefits will ever be available to class members. If
8 they do become available, a separate notice will be issued about how to submit a claim for potential
9 money or benefits.

10 **E. What happens if I do nothing at all?**

11 If you do nothing, you will be bound by the outcome of the lawsuit regardless of who wins.
12 You will keep the possibility of getting money or benefits that may come from a trial or settlement.
13 Unless you excluded yourself from the class, you will not be able to file a lawsuit or be part of any
14 other lawsuit asserting claims against the Board related to the allegations or claims in this case.
15 Once you are in the class, you will not be able to remove yourself from it.

16 **F. What does it mean to request to be excluded or to opt-out from the class**

17 If you exclude yourself from the Class by “opting out,” you will not be eligible to receive a
18 payment from future settlements or judgments in this lawsuit. You will keep your right to sue the
19 Board relating to the claims in this lawsuit. If you excluded yourself or opted out, you did not do so
20 with respect to any injunction that the Court may enter in the lawsuit.

21 **G. How do I exclude myself?**

22 To exclude yourself or your business, you must send a letter by mail or email saying that you
23 wish to be excluded. You must include your name, business name (if applicable), address, telephone
24 number, email and signature, and a statement that you want to exclude yourself or your business
25 from the class in this litigation. You cannot exclude yourself or your business by telephone. You
26 must mail or email your request for exclusion, postmarked no later than **March 15, 2025** to:

27 Berkeley Registration Fees Notice Administrator
28 c/o SSI, an Epiq Company
P.O. Box 2715

Portland, OR 97208-2715
Phone: 888-868-8642
Fax: 850-385-6008
Email: claims@ssiclaims.com
Website: www.berkeleyregistrationfees.com

Unless you exclude yourself or your business, you or your business will be bound by the outcome of the case. You will not be able to file a lawsuit or be part of any other lawsuit asserting claims against the Berkeley Rent Stabilization Board concerning or relating to the claims and factual allegations that were or could have been raised in this lawsuit.

H. Who are the lawyers representing the class?

The Court has appointed lawyers to represent you and the other class members. These lawyers are called “Class Counsel”. The following lawyers represent the class:

Frank Busch
Victor H. Yu
Coblentz Patch Duffy & Bass LLP
One Montgomery Street, Suite 3000
San Francisco, CA 94104-5500
Telephone: 415.391.4800
Email: ef-fhb@cpdb.com
ef-vhy@cpdb.com

I. How will the lawyers representing the class be compensated?

If Plaintiffs prevail in the lawsuit, Class Counsel may ask the Court to approve attorney’s fees, which may be up to one-third of any recovery that may be obtained in this lawsuit, plus costs and expenses. They may will ask the Court to approve incentive payments to the named Plaintiff from any recovery that may be obtained in this lawsuit. Those fees, costs and awards must be approved by the Court.

J. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel are working on behalf of the class. If you choose to hire your own lawyer to represent you, you will have to pay for that lawyer on your own.

K. How can I keep up with developments?

Class Counsel has hired SSI, an Epiq Company to assist with the class notice process and to

1 maintain this website for all class members. Updates regarding the case and the class notice process
2 will be provided on this website and not by additional mailings to potential class members. This
3 includes major developments in the case, supplemental information to be distributed to the class,
4 and changes to dates the Court sets. Please check this website on a regular basis to see whether there
5 are updates or new information.

6 **L. Where can I get more information about this lawsuit?**

7 The Notice contains a summary of the lawsuit and the proceedings. You may access
8 additional information on this website. Complete copies of the pleadings, orders and other publicly
9 filed documents in the lawsuit may be accessed for a fee through the Court’s eCourt Public Portal at
10 <https://eportal.alameda.courts.ca.gov/?q=Home>.

11 The Court and the Berkeley Rent Stabilization Board will not respond to any questions
12 regarding this Notice or the lawsuit. Please do not contact Judge Seligman, Department 22, the
13 Clerk of the Court, or the Berkeley Rent Stabilization Board.

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