

DEC  
2023



## The Advocate for Berkeley's Rental Housing Providers

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### Christmas Gifts for Your Tenants

Mark Tarses, President, BPOA

Are you planning to give Christmas gifts to your tenants? Here's why you should. Berkeley is not a normal rental market. We are regulated by a hostile city government, and we are facing a far more competitive rental market, mainly due to all the new buildings around town.

You need goodwill with your customers in any business, and that is especially true for landlords in Berkeley. Remember, goodwill is cheap; ill will is expensive. The easiest Christmas present to give to a tenant is a gift card. The best place to get gift cards is Costco. That's because you can buy gift cards from See's candy, Peet's coffee, and many other businesses at Costco at a discount to their face value. Also, when I look at the gift baskets they sell at Costco at this time of year, I sometimes wonder how they can sell this stuff so cheap. And remember, Christmas gifts to your tenants are tax-deductible.

Don't confuse repairs and proper maintenance of your property with gifts. Good maintenance of your property is your job, and doing your job is not a gift. I knew a landlord who told his tenants that he was going to give them all Christmas gifts, but he wouldn't tell them what the gifts were going to be. He said that he wanted it to be a surprise. The tenants were excited with anticipation. Then just before Christmas, the landlord sent letters to his tenants saying that their Christmas gift was going to be new venetian blinds for their apartments. All the venetian blinds in his building were old, and many had bent or broken slats. He told me that his 'Christmas gifts' made his tenants angry, but he didn't know why. He also didn't know why I was laughing when he told me this story.

### COMING ATTRACTIONS

*Diversifying Your Financial Portfolio*

Wednesday, December 6, 12:00 pm

*Holiday Party*

Thursday, December 14, 5:30 pm

*The ABCs of Building ADUs*

Wednesday, January 10, Noon

*Legalizing Non-Confirming Units:*

*Permitting the Unpermitted*

Wednesday, February 7, Noon

See pages 13 & 14 for details & more events!

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# Editorial

Thank You, UC Berkeley

Albert Sukoff, Editor

BPOA Monthly is a regular publication of the Berkeley Property Owners Association, a trade association dedicated to assisting rental housing providers with upkeep and management of residential rental property and coping with Berkeley's rent law.

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## About the Newsletter

Our articles are contributed on a volunteer basis by members and other interested parties, although we do accept paid advertising. We are always happy to include material submitted by members and welcome suggestions on how to improve our publication.

All articles in this publication represent the author's viewpoint and not necessarily the position of our organization.

Direct comments and material to our Bancroft Way office or to [bpoa@bpoa.org](mailto:bpoa@bpoa.org)

Why are some rental markets better than others? In September in this space, we touted our climate as a significant draw which makes the Bay Area, and especially the East Bay, a desirable place to live. Cultural opportunities also attract people to live here rather than elsewhere. So do recreational activities, quality entertainment and scenic beauty.

What most contributes to a vibrant rental market, however, is the local economy. Renters mostly pay rent with earnings and earnings vary from market to market. What significantly drives good earnings is what developmental economists call *basic industry*.

Basic industry refers to those economic activities which draw money from outside the local market. If the residents of two adjacent houses do their own laundry, you get clean laundry but there is no economic activity involved. No income is earned. If each household did the other's laundry and paid for the service, income would be generated but there is no gain to the economy. Their mutual service to each other would be — excuse the pun — a wash. This is not basic industry.

Basic industry is usually thought of as large-scale business. It is, however, broader than that. Suppose one guy — say a local novelist — hits it big and generates millions in royalties. To the degree that he/she spends the money from his/her New York publisher locally, this too is basic industry. The purchase of an expensive new car or an extensive house remodel spurs the local economy with money that comes from the novelist's readers all over the world.

How well basic industry does dictates whether a local economy grows, stagnates or declines. Good examples would be the Seattle economy booming with the emergence of Microsoft, Amazon and Costco. On the other hand, Detroit has literally lost half its population with the failure of the American car industry to maintain its predominance in the automobile market.

Basic industry for Berkeley is clearly the University of California. We should be grateful. As basic industry goes, it doesn't get much better. UC activities are environmentally clean. The inflow of money is enormous. The campus has a \$3 billion annual budget which supports over 45,000 students and over 22,000 faculty and staff. Almost best of all, UC is not subject to the usual vicissitudes of the economy. Its impact is at least steady. Generally, it expands year after year, extending even greater benefits over time.

Unlike pure college towns like Ann Arbor and Boulder, Berkeley is imbedded in a major metropolitan area. This does spread the many benefits further afield. Many goods and services purchased by UC come from outside Berkeley. Nevertheless, some goods and services are more location-sensitive than others. While office supplies for UC might come from anywhere in the Bay Area, the weekday demand for lunch generated by the campus will not be met by restaurants in San Leandro, but rather those south of campus.

The most location-sensitive demand generated by UC is of course housing. UC affiliates may find housing throughout the East Bay and even beyond, but the

*continued on page 16*

# ❖ THE COALITION CORNER ❖

Krista Gulbransen, BRHC Executive Director

**The Berkeley Rental Housing Coalition (BRHC)  
is the political and legal voice of Berkeley's rental housing providers.**

## **TOPA — Taking Our Property Away**

It's election season and elected officials are on the prowl. Those vying for re-election — or the coveted Mayoral seat — are searching for new public policies they can implement to advance their personal agenda.

And so, November 2024 is set to be another record election year. The rental housing industry will see the return of a state ballot initiative to defeat Costa Hawkins, the threat to eradicate Golden Duplexes in Berkeley, and the attempt to devalue rental property using the Tenant Opportunity to Purchase Act.

**What is the Tenant Opportunity to Purchase Act?** It is a private property attack scheme aimed at devaluing a property to the point in which the community could purchase the property for "community benefit." This is the basis of social housing policies where supporters believe housing is a human right that should be made available to all.

**What is "social housing?"** Social housing is rental housing that is owned and run by not-for-profit agencies or land trusts. It's made up of two types of housing: public and community-owned housing. In 1976, the Community Ownership Organizing Project wrote *The Cities' Wealth: Programs of Community Economic Control in Berkeley, California*. Its focus was on "...the techniques of economic and political policy which lead towards controlling and real-locating a city's wealth." Moreover, it calls for "community control of the police and cooperative community-owned housing [that limits] property speculation and thus deflates or partially expropriates income property values."

**Why do social housing proponents want to devalue property values?** They strongly believe that for-profit housing is capitalism at its worst and that the only way in which to make housing a public right is to kill the "speculative housing market." These proponents also know that the only way to kill the speculative market is to make it unprofitable so that fewer people are buying it as a "profit-making entity."

**How does social housing get implemented?** Primarily through public policy that either takes private ownership out of the equation (not-for-profits purchasing housing), makes owning and running private housing less desirable, and does anything to drive down the cost to acquire housing. The stated goal of local social housing advocates is to

acquire at least 51% of privately owned housing within a 10 — 15-year timeframe.

Is there a master plan in play for social housing? Yes, most definitely and the pandemic only set in motion the advancement of that plan. All along they have intended to advance their political agenda, but they were pleasantly surprised when they realized they could use the financial impact of the pandemic to their advantage. By implementing the eviction moratoria, they soon realized they would be able to more quickly send mom and pop rental housing providers into financial ruin which would make the housing more attainable by affordable housing non-profits. By making sure the eviction moratoria went on as long as they did, this allowed for unpaid rents to pile up. This in turn was likely to bring parts of the industry to its knees knowing full well that those rents would never be paid back. Meanwhile they have worked to advance such policies as TOPA, in an effort to be properly positioned to acquire rental housing at a reduced cost and with a first-right-of offer position. Their hope is to attain housing that they can make "permanently affordable" using money from both the tech and rental housing industries.

This all speaks to the importance of the Berkeley Rental Housing Coalition and its constant political efforts. If no one was advocating and watching out for rental housing in Berkeley, many of these policies would already be in place. Instead, we are gathering strength in numbers by creating coalitions with other like-minded industry organizations and leaders. We won't accept the decimation of

*continued on page 17*

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Tarini Mehta, Bay Area News Group, July 26, 2023

### **2023 report says Silicon Valley is the fourth most competitive rental market in California while East and North Bay are the least competitive**

There are few things as frustrating as looking for an apartment that checks all the boxes. If it's affordable, it's dark and gloomy. If it's in a good location, it has mold in the bathroom. And if, by some stroke of luck, it's perfect, then without a doubt someone else will beat you to it.

Yet it's easier to rent in some parts of the Bay Area than others. According to a new report, the North Bay/San Francisco Peninsula and the East Bay were the least competitive rental markets in California in the first quarter of the year while Silicon Valley — which includes Santa Clara and San Benito counties — ranked as the fourth most competitive.

The report by national apartment listing service RentCafe analyzed data from 137 rental markets in the U.S. and calculated their rental competitiveness based on a variety of factors: apartment occupancy rate, average vacant days, prospective renters per unit, renewal lease rate and the percentage of new apartments completed during the period.

In the North Bay/San Francisco Peninsula, apartments stay vacant for 44 days, on average, and each vacant unit attracts around seven prospective renters, the report says. In the East Bay, apartments stay vacant for about 43 days, and such units attract around nine prospective renters.

In Silicon Valley, however, apartments stay vacant for only 36 days on average, and there are about 13 prospective renters per vacancy. The national average is 43 days and nine renters, a slowdown from last year's 36 days and 13 renters.

For apartment hunters, occupancy rates matter, because they signal availability. The occupancy rate is 92.9% in the North Bay/San Francisco Peninsula, 94.1% in the East Bay and 95.6% in Silicon Valley. The national average is 94%. New apartments make up a tiny fraction of the market — 0.4% in the North Bay/San Francisco Peninsula and 0.49% in the East Bay — and an even smaller slice in Silicon Valley, where new construction accounts for only 0.16% of the market, the report says. That's one home in every 625.

All this data suggests it's comparatively easier right now to find an apartment to rent in the East and North Bay/San Francisco Peninsula. But renters' actual experience

can be very different, said Anya Svanoe, who works for a housing-focused nonprofit. She was looking for a one-bedroom place in Oakland earlier this year and found the city's rental market to be very competitive.

"Finding a good, affordable apartment in a pleasant neighborhood here is hard," Svanoe said. "The first place we liked, they took someone else's bid. Even the apartment we finally got, they had lots of other people coming in to see it. Had we not signed up as quickly as we did, we wouldn't have got it."

University of Pennsylvania graduate student Sandilya Sivaraju, who is in the Bay Area for a summer internship, managed to find a sublet in Berkeley fairly easily. Now he's looking for a new place to rent through December, and his search through Facebook and Craigslist has been frustrating.

"There are a lot of scams and very few options," he said. "Maybe people who have been looking for a while are finding places, but for someone new to the region, it's been challenging."

And it's only going to get more competitive, according to Doug Ressler, senior analyst at RentCafe's sister company Yardi Matrix, which publishes real estate reports.

"The East Bay has a lot of room for growth," he said. "When we do this report again in another three months, you'll probably see the East Bay's market become more competitive, especially as offices move out of San Francisco and into the East Bay, which is less expensive. We also anticipate that property owners who don't want to lose renters will offer more concessions in the third and fourth quarter of this year."

For now, none of the Bay Area's rental hubs are in the report's list of 20 most competitive markets in the country for the first quarter of 2023. Those spots went to Miami, closely followed by North Jersey. Silicon Valley was ranked 21st. On the other flip side, Minneapolis-Saint Paul, Minnesota, and Seattle's southern neighbor, Tacoma, Washington, are the least competitive markets in the country, closely followed by the North Bay.

"The Bay Area used to be a magnet for a lot of new employment," Ressler said. "Well, new employment has sta-

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# Landlords Offer Concessions as Apartment Demand Lags

Roland Li, San Francisco Chronicle, November 3, 2023

Some of San Francisco's largest apartment owners are in agreement: The city is still struggling from a pandemic hangover that is dampening pricing, and free rent concessions are widespread.

AvalonBay, which owns 12,133 Bay Area apartments, saw demand soften in the past month, in part because of continued remote work.

"San Francisco — just to pick on it since everyone seems to like to lately — there's a number of different headwinds there as I think we're all well aware of," said Sean Breslin, AvalonBay's chief operating officer, on an earnings call last week. "Probably not the best time of the year to be seeing some elevated demand there — it's just not the case. And there's not really a great reason for people to be coming back to the office at this point still.

"So fundamentals have remained weak and they did get weaker as we moved through the quarter into October. So trying to know exactly what's underneath that other than weaker demand overall, it's hard to be precise, but I'd say we did not see the same level of weakness in Seattle," he said, adding that "Seattle is still not strong."

AvalonBay said its Bay Area monthly rents were up 3.6% to \$3,035 per month compared with the prior year, lagging the company's national rental increase of 5.4%. The Bay Area's growth was behind seven other regions and ahead of only the Pacific Northwest, which saw a 1.1% rental revenue increase.

Its Bay Area rents were 0.5% higher than in the prior quarter, lagging its national growth of 1.4% and behind other regions such as Southern California's 2.2% rent growth. Bay Area occupancy dropped by 0.5 percentage points, compared with the prior quarter.

Landlord UDR, which owns 3,738 Bay Area apartments along with its partners, said the region has seen the biggest increase in concessions in the country. UDR is averaging three weeks of free rent in the market, and other projects are offering up to six weeks, equivalent to an 11% discount on annual rent.

In comparison, the company's apartments in Austin, Texas, are averaging 1-1/2 weeks of free rent.

UDR CEO Tom Toomey said concessions have shot up nationwide in the past couple months as new buildings

opened, which has in particular hurt "Class B" buildings that are a tier below the highest quality properties.

"This dynamic and its impact on our 'B quality' communities in particular was unexpected and unprecedented in my 30 years in the multifamily industry," he said on an earnings call last week. The company cut its fourth quarter guidance as a result and expects rental rate growth of around 1% in October, compared with the prior year.

The company's same-store Bay Area portfolio is 96.3% leased, down slightly from 96.5% in the year prior. Monthly rents were up 3.5% to \$3,557 in the past year, below the company's national rent increase of 5%, though the Bay Area remains the second-most expensive region behind only New York.

San Francisco rental rates for new leases, however, were down 2.6% from the prior year. Nationally, new lease rental rates were down 1.5% for the company.

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*UDR is averaging three weeks of free rent in the market, and other projects are offering up to six weeks, equivalent to an 11% discount on annual rent.*

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UDR reported stabilized occupancy on a \$127 million, 220-home Dublin project in the East Bay. It also owns the 447-unit 399 Fremont St. tower in the Transbay area.

Essex Property Trust owns around 1,000 San Francisco apartments, and its revenue in the city fell 1.9% in the third quarter compared with the prior year.

In contrast, Santa Clara County saw revenue rise 4.9% in the same period, and San Diego County saw an 8.7% gain, the most of any area for the company.

"San Francisco and Oakland Central Business District, which account for a small portion of our net operating income, have lagged the regional average. Oakland continues to be impacted by (new) supply, which is expected to continue into 2024," said Barb Pak, chief financial officer at Essex.

Essex is also offering its largest free rent concessions — around one week — in the Bay Area and Los Angeles compared with other regions.

"On the demand side for Northern California, we do want to acknowledge that it remains soft," said Angela Kleiman, CEO of Essex.

But Kleiman believes tech layoffs are diminishing and, going forward, less remote work hiring and more international migration will help the Bay Area.

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*Supriya Yelimeli, Berkeleyside, November 20, 2023*

### ***The Berkeley Rent Board will hold a special meeting to consider a resolution in support of a cease-fire in Gaza.***

Berkeley Rent Stabilization Board Chair Leah Simon-Weisberg took the mic last week to condemn the killing of Palestinians and Israelis and call for a cease-fire in the Israeli war in Gaza.

Simon-Weisberg is the first elected leader in Berkeley to call for a resolution in support of Palestine, condemning Israel's actions. As board chair, she penned a letter to President Biden and members of Congress pushing for a cease-fire. The rent board will also host a special meeting next month to consider a formal resolution.

Simon-Weisberg, who participated in a large, Jewish-led sit-in at the Ronald V. Dellums Federal Building in downtown Oakland on Nov. 13, read the letter aloud at Thursday's rent board meeting. In it, she noted that Israel killed over 10,000 Palestinians in a span of four weeks after Hamas' Oct. 7 attack on Israel, according to the Gaza Health Ministry. The Israeli government said 1,200 people were killed in the attack and at least 240 were taken hostage.

She mourned the innocent lives in the letter and called attention to over 4,000 children killed in Gaza. As of this week, that number has jumped to over 5,000. Al Jazeera reported that one out of every 200 children in Gaza has been killed by Israeli attacks in the past six weeks, according to Palestinian officials.

"Bad things happen when good people do nothing. We must speak up. As Americans, we must learn from past genocides and not allow our government to be complicit in the displacement and killing of the Palestinian people," Simon-Weisberg wrote.

She called for an end to Israel's ongoing occupation of Palestine, which has lasted over 50 years, and stressed that instead of funding Israel's military, the U.S. should use its power to pursue diplomatic solutions and end violence against people in Gaza and the West Bank. She also highlighted that local communities are suffering from intersecting crises while the federal government considers outside spending.

"In addition to the pain and suffering our Arab, Muslim, and Jewish communities are enduring here in Berkeley, we are also facing the ongoing crises of homelessness, gun violence, and lack of access to health and mental services,

affordable childcare, quality education, good paying jobs and affordable housing," she wrote.

The regularly scheduled Rent Board meeting, held in a hybrid format, began with about two dozen public speakers calling for a cease-fire in Palestine and a special meeting to discuss the issue.

Many Berkeley residents spoke about their connections to the Palestinian struggle.

Jonah Gottlieb, a UC Berkeley student, was the campaign manager for four Rent Board members in the "pro-tenant" slate. He has participated in several protests for Palestine, including a sit-in at the California Democrats' convention on Nov. 18 in Sacramento.

"My family didn't face antisemitic pogroms in Czarist Russia just for their trauma and my tax dollars to be used for ethnic cleansing, genocide, war crimes and occupation," Gottlieb said. "Never again' means never again, and as a Jew, I need to make it clear that though these crimes are being committed in my name, they're absolutely doing nothing to keep Jews in the Bay Area safe."

Gottlieb said the root of the ongoing violence is Israel's occupation of Palestine and the notion should be rejected that Jewish people need an ethno-state with a massive military budget to survive.

Rent board members didn't share complete comments on the potential resolution because it wasn't on the agenda for Thursday's meeting, but nearly all of the board made short statements supporting the Palestinian people or a cease-fire resolution.

The Rent Board is the first to call for a special meeting specifically to discuss Gaza and demand a cease-fire, and Simon-Weisberg noted the Berkeley City Council's inaction as a reason for her letter. The council meeting was shut down by activists calling for that elected body to do the same last week, and Berkeley Unified School Board has grappled with contrasting demands from parents to improve ethnic studies curriculums and support both Jewish and Arab students on school campuses.

In 2021, the Rent Board passed a resolution supporting Palestinians facing expulsion in the Sheikh Jarrah neighborhood of Jerusalem, led by Commissioner Soli Alpert.

# L.A. City Council Approves 2024 Rent Hikes of 4% to 6% for Rent-Controlled Units

Jose Herrera, City News Service, November 15, 2023

After a lengthy discussion, the Los Angeles City Council approved limiting rent increases on rent-stabilized units to 4%, or up to 6% if landlords cover gas and electric costs.

Council members voted 10-2 Tuesday night to move forward on the proposal, meant to limit anticipated rent hikes for properties that are subject to the city's rent-control law.

As part of the plan, the council instructed the Housing Department, in consultation with the United to House LA Citizens Oversight Committee, to develop programs assisting landlords and tenants, as well as for small housing providers, for the maintenance and preservation of rent-controlled units.

The council also amended its proposal to include a report back on establishing a rule or policy that would help distinguish mom-and-pop landlords from corporate landlords, in an attempt to ensure small landlords can receive city resources to stay afloat.

Council members Paul Krekorian, Curren Price and Katy Yaroslavsky recused themselves because they are landlords. Council members Traci Park and John Lee voted against the item.

Tuesday's action was prompted by a Jan. 31, 2024, deadline in which a pandemic-era rent freeze placed on rent-stabilized units is set to expire.

The city's Rent Stabilization Ordinance was adopted in 1979 and applies to rental housing built before 1978. It limits the allowable increase for rent-controlled units, tying rent increases to the consumer price index, a measure of inflation.

In response to the rent hike deadline, Councilman Hugo Soto-Martinez introduced a motion on Oct. 25 that sought to extend the freeze on rent-controlled units.

The motion was then amended by Councilman Bob Blumenfield during the Housing and Homelessness Committee on Nov. 1. Rather than extend the rent freeze, the Blumenfield amendment requested that the city attorney, with the assistance of the Housing Department, draft an ordinance that would temporarily set rent increases for rent-controlled units from Feb. 1 to June 30, 2024.

The hikes would be calculated using a formula outlined in the city's rent control law, using the consumer price index from October 2022 to September 2023 instead of from October 2021 to September 2022.

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Tiffany Van Buren, BPOA Deputy Director

## Maximizing Your Membership Experience: Touring the BPOA Website Part Four: The Calendar and About Tabs

This month, we'll wrap up our BPOA website navigation series by taking a look at the last two menu items, 'Calendar' and 'About', and I'll let you know about a new addition to 'Resources' that you won't want to miss!

Hop over to the 'Calendar' tab to see our upcoming events. The default display is in list view, but you can use the box on the right to switch to calendar view. Events are displayed in chronological order, starting with the most current. For event details, you can click the title of the event, or click the blue *Details* button. A laptop icon indicates a virtual (Zoom) webinar. To register, click the green *Register Now* button on the right side of the screen. If the *Register Now* button is not visible to you, ensure that you are logged in to your member account and have no outstanding dues.

Can't find the Zoom link? If you've preregistered for a webinar, you can access Zoom from our website! Sign into your Member Compass™ 15 minutes before the event, click the *Registered Events* box, and then, click the *Join Now!* button. If you're early, you'll see a "Not Quite Time!" message.

Take a stroll through the 'About' section- a treasure trove of insights into who we are. Discover our purpose in "Our Mission," travel back in time with 'A Brief History' to trace the footsteps of our journey. Meet the faces of our 'Board of Directors and Staff,' unveil the meaning behind "Housing Provider" in 'Why We're "Housing Providers"' and explore the trusted guide for our operations laid out in 'BPOA Bylaws.' Membership has its privileges — find out about them in 'Membership & Services.' Our 'Disclaimer' section is there to keep things clear and fair. 'Contact Us' sends an email directly to office staff; we welcome your questions and feedback. The last tab houses our Berkeley Rental Housing Coalition (BRHC) content. Read about why and when the Coalition was formed, who comprises their membership, and who sits on their board and staff. Learn about BRHC membership with the 'BRHC Membership' tab, learn what's been newsworthy with 'BRHC In The News,' check out 'California Lawsuits,' and changes to state and public policy with 'Legal & Advocacy.' The 'About' section is more than just a word on a page; it's rich with information about who we are and what we do.

And lastly, an update to the 'Resources' menu! We've published a list of the bills passed into law with the highest potential to impact our members. Click *What's New for 2024?* To expand the description box, click the ?.

This article ends our four-part series. If you have any web navigation-related questions or suggestions, please reach out to [Tiffany@BPOA.org](mailto:Tiffany@BPOA.org).

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### L.A. Rent

According to Blumenfield, by using the most recent consumer price index, the formula would allow a rent increase of 4%, up to 6%, instead of what would have been a 7% increase.

"So, that's why I put that forward in committee because it didn't change the formula. It merely changed the window that we look at that formula to make it the most updated window," Blumenfield said.

Housing advocates, tenants and landlords are all "not happy" with the proposal, the councilman said — which, he added, demonstrates the "compromise probably makes sense because both sides hate it."

"I just hope that folks are ready to look at themselves when we see an increase (in eviction filings) because if we increase rent, people are going to get evicted and we're not going to stop this eviction to homelessness pipeline," said Councilwoman Eunisses Hernandez said, who voted in favor of limiting rent hikes.

Councilwoman Monica Rodriguez urged her colleagues to be responsible in how they manage the issue.

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# Renting to Roommates: Five “Key” Considerations

By Lauren Zumbach, Story by J.P. Morgan

If you’re renting apartments to roommates, there are some special considerations to keep in mind when it comes to lease agreements, security deposits and potential roommate disputes. Experts weigh in on ways to keep relationships between roommates — and their housing providers — headache-free.

## Applicant Vetting

Every roommate should go through your standard application process, such as a background and credit check, even if one of the roommates is capable of qualifying for a lease independently, says Bryson Weed, co-founder and managing partner at Utah-based Island View Capital Partners. It can protect both you and your renters. Early in Weed’s real estate career, one of his residents asked if a friend could move into the unit as a roommate. He agreed without asking the friend to go through the full screening process because the original resident had already met his qualifications. After moving in, the friend began stealing money from their roommate, according to Weed. “Had we done a background check and credit check on the new roommate, I’m positive something would have come up that would have clued us in,” he says.

## Leases

Both you and your renters should understand the scope of what they agree to when signing a lease. If a lease holds renters joint and severally liable, all the roommates on the lease and each roommate individually can be responsible for the full rent and any damages, says Ann O’Connell, legal editor, and attorney at Nolo, an online legal resource and publisher. While it’s not an unusual lease feature, it’s still a good idea to explain it to roommates and make sure they understand that they can be held responsible for the full rent and any damage caused, not just their portion, if their roommates can’t pay, she says.

## Security Deposits

Whether you collect a single deposit on behalf of a group of roommates or accept individual deposits can make a difference if you need to use a portion of the deposit to cover unpaid rent or damage repair costs. If each roommate has their own security deposit, a property owner would have to figure out from whom to deduct any unpaid rent or damage repair costs, O’Connell says. When the group has a collective security deposit, the property owner can let the roommates determine how to handle the remaining amount. What happens if you accept a group security deposit, and one renter moves out before their

roommates? As long as at least one of the original renters remains, owners aren’t obligated to return the deposit, O’Connell says.

Juan Huizar, Sage Real Estate president and broker in Long Beach, California, says he typically does not return a portion of the security deposit if a roommate moves out or accept deposits from people joining a roommate group, instead letting the residents determine how to divide responsibility for the deposit. It’s not unusual for roommate groups to change over time, and trying to slice and dice the security deposit as people come and go can get difficult, he says.

## Rent Payments

Property owners can choose whether to require one collective rent payment each month or let each roommate pay their share of the rent individually. Letting roommates designate one person to submit the full rent payment each month can simplify the process. However, rent management tools like Story’s make it easy for roommates to split rent into individual shares and keep track of each person’s payments, Weed says. Regardless of how you collect rent, it’s a good idea to clearly communicate payment instructions to renters.

## Preventing Disputes

Even close friends who’ve chosen to live together can clash. Roommate agreements, which let renters establish house rules and create a process for resolving disputes, can help prevent conflicts or keep them from escalating, O’Connell says. While the property owner wouldn’t be party to the agreement, an owner could encourage roommate residents to consider establishing one.

Roommates may try to rely on the property owner’s authority to address conflicts that arise, Weed says. In some cases, it’s best to let them handle the issue on their own, but it’s also important to know when to step in. “There are some purely personal situations where residents need to address the situation themselves, but as soon as anyone’s in danger, or a law is being broken, I need to make that my problem,” Weed says. If a roommate conflict rises to the level of domestic violence, victims may have access to housing protections, like early lease termination rights or the right to have locks changed, O’Connell says. Consult with an expert to make sure you understand your responsibilities under federal, state and local laws.

The National Housing Law Project and National Network

*continued on page 17*

## Berkeley Raises Height Limits to Ease UC Housing Crunch

Sarah Ravani, San Francisco Chronicle, November 23, 2023

### *The new zoning will allow building heights to rise by 85 feet on certain streets*

The city of Berkeley will now allow taller buildings in a densely populated neighborhood adjoining the UC Berkeley campus — a major win to address the university's student housing crunch.

The Berkeley City Council voted unanimously Tuesday to change its zoning laws to permit buildings as high as 12 stories in the South-side area below the campus. The proposed modifications — which also relax some open space requirements — will allow for an additional 2,652 residential units in neighborhoods bounded by Bancroft Way, Prospect Street, Dwight Way and Fulton Street.

"I could not be more relieved and excited that the city has finally taken this overdue and urgent step," said Council Member Rigel Robinson, who represents the Southside neighborhood. "The student housing crisis has become the defining characteristic of the student experience at UC Berkeley. ... And the student housing crisis has ripple effects on our citywide housing crisis."

UC Berkeley provides housing for only 23% of its students, the lowest rate of any UC campus in the state. Last year, a judge forced the university to withhold

acceptances for thousands of students due to the lack of housing until the state Legislature intervened and allowed the students to come.

The changes are a significant win for university students — some of whom called into the meeting Tuesday to describe their challenges in finding affordable housing near campus.

"We need more student housing and we need it now," one third-year undergraduate student said.

The new zoning will allow building heights to rise by 85 feet on certain streets, including parts of Telegraph Avenue, Bancroft Way, Durant Avenue and others. Developers can now go up to 12 stories under state density bonus rules if they include affordable housing in the project.

If developers include both affordable housing and middle-income housing, they would be eligible under AB1287, a new state density law recently signed by Gov. Gavin Newsom. In those cases, Robinson said, some housing projects could rise as high as 16 stories. AB1287 goes into effect next year.

*continued on page 17*

# Jingle & Mingle

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bilized, and the tech industry has downsized. So you don't have the jobs you used to in the region. But that's going to change. These things are cyclical. Once the tech industry starts making its comeback, there will be new jobs and more migration to the Bay Area."

The report by national apartment listing service RentCafe analyzed data from 137 rental markets in the U.S. and calculated their rental competitiveness based on a variety of factors: apartment occupancy rate, average vacant days, prospective renters per unit, renewal lease rate and the percentage of new apartments completed during the period.

In the North Bay/San Francisco Peninsula, apartments stay vacant for 44 days, on average, and each vacant unit attracts around seven prospective renters, the report says. In the East Bay, apartments stay vacant for about 43 days, and such units attract around nine prospective renters.

In Silicon Valley, however, apartments stay vacant for only 36 days on average, and there are about 13 prospective renters per vacancy. The national average is 43 days and nine renters, a slowdown from last year's 36 days and 13 renters.

For apartment hunters, occupancy rates matter, because they signal availability. The occupancy rate is 92.9% in the North Bay/San Francisco Peninsula, 94.1% in the East Bay and 95.6% in Silicon Valley. The national average is 94%. New apartments make up a tiny fraction of the market — 0.4% in the North Bay/San Francisco Peninsula and 0.49% in the East Bay — and an even smaller slice in Silicon Valley, where new construction accounts for only 0.16% of the market, the report says. That's one home in every 625.

All this data suggests it's comparatively easier right now to find an apartment to rent in the East and North Bay/San Francisco Peninsula. But renters' actual experience can be very different, said Anya Svanoe, who works for a housing-focused nonprofit. She was looking for a one-bedroom place in Oakland earlier this year and found the city's rental market to be very competitive.

"Finding a good, affordable apartment in a pleasant neighborhood here is hard," Svanoe said. "The first place we liked, they took someone else's bid. Even the apartment we finally got, they had lots of other people coming

in to see it. Had we not signed up as quickly as we did, we wouldn't have got it."

University of Pennsylvania graduate student Sandilya Sivaraju, who is in the Bay Area for a summer internship, managed to find a sublet in Berkeley fairly easily. Now he's looking for a new place to rent through December, and his search through Facebook and Craigslist has been frustrating.

"There are a lot of scams and very few options," he said. "Maybe people who have been looking for a while are finding places, but for someone new to the region, it's been challenging."

And it's only going to get more competitive, according to Doug Ressler, senior analyst at RentCafe's sister company Yardi Matrix, which publishes real estate reports.

"The East Bay has a lot of room for growth," he said. "When we do this report again in another three months, you'll probably see the East Bay's market become more competitive, especially as offices move out of San Francisco and into the East Bay, which is less expensive. We also anticipate that property owners who don't want to lose renters will offer more concessions in the third and fourth quarter of this year."

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*For now, none of the Bay Area's rental hubs are in the report's list of 20 most competitive markets in the country for the first quarter of 2023.*

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For now, none of the Bay Area's rental hubs are in the report's list of 20 most competitive markets in the country for the first quarter of 2023. Those spots went to Miami, closely followed by North Jersey. Silicon Valley was ranked 21st. On the other flip side, Minneapolis-Saint Paul, Minnesota, and Seattle's southern neighbor, Tacoma, Washington, are the least competitive markets in the country, closely followed by the North Bay.

"The Bay Area used to be a magnet for a lot of new employment," Ressler said. "Well, new employment has stabilized, and the tech industry has downsized. So you don't have the jobs you used to in the region. But that's going to change. These things are cyclical. Once the tech industry starts making its comeback, there will be new jobs and more migration to the Bay Area."



Adrian Rodriguez, Marin Independent Journal, September 7, 2023

### *Larkspur has become the second city in Marin to adopt a local rent control ordinance.*

After spending more than a year deliberating the issue, the City Council voted 3-1 on Wednesday to approve a rent control program that caps rent increases at 5% plus inflation or 7%, whichever figure is lower.

"This is a big issue," Mayor Gabe Paulson said Thursday. "I'm proud that we continued a difficult conversation."

"It's been such a challenge to keep landlords in business and renters housed," Paulson said. "But I think we, as policy makers, we have to do that, we have to have this conversation."

Councilmember Catherine Way cast the dissenting vote maintaining that taking rent control to the ballot would facilitate the most democratic process for such a law.

"It's an issue of such a strong potential economic impact to so many renters and so many property owners that it really shouldn't be a decision of the four people on the council, but by the voters of Larkspur," Way said Thursday.

"Many cities have chosen a referendum on rent control and that makes it so it's not just the loudest voices in the room, but everyone can participate," Way said.

When the ordinance takes effect 30 days after the vote, Larkspur will join Fairfax, the first Marin municipality to adopt a rent control ordinance.

The new provision is stronger than state Assembly Bill 1482, or the Tenant Protection Act, which sets the bar at 5% plus inflation or 10%, whichever is lower.

The state law expires on Jan. 1, 2030. The local law is retroactive to May 8 and is set to end on Dec. 31, 2030.

In addition to the rental cap, the ordinance establishes a petition process for landlords seeking a "fair rate of return" that justifies an increase above the ceiling. However, landlords cannot exceed the state rent increase cap.

It also allows the city to charge a fee to administer the program. This will create a rental registry program,

requiring landlords to make annual filings that would be maintained in a database.

"In the meantime, staff is working on some of the plans behind the scenes that we need to implement," City Manager Dan Schwarz said.

That will include a webpage on the city's website with information and resources for both tenants and landlords, Schwarz said.

Staff will also be soliciting interest from service providers who can support landlords and tenants. The rental reg-

istry program will need to be drafted and vetted at a City Council meeting for approval, Schwarz said.

"I think staff has really learned through this process how much support our tenant and landlord community needs in terms of what the laws are and what their rights

"I'm not just referring to these ordinances, there is a need for both those constituencies everywhere," Schwarz said. "The rules that govern rent are complicated and people could use help navigating that."

The rent control law will complement a just-cause-for-eviction ordinance, which is also retroactive to May 8 and expires Dec. 31, 2030.

That ordinance establishes relocation assistance payments equal to three months' rent or \$5,000, whichever is greater, for a no-fault eviction.

The ordinance establishes a tenant's right to return to a dwelling if the landlord chooses to rent the residence within 12 months of eviction. It also has protections for those who are elderly, disabled or terminally ill.

California's Costa-Hawkins Rental Housing Act prohibits local rent control regulations on properties constructed after 1995. Detached homes and condominiums are also exempt from rent control under the law.

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*The new provision is  
stronger than state  
Assembly Bill 1482, or  
the Tenant Protection  
Act, which sets the bar  
at 5% plus inflation or  
10%, whichever is lower.*

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## Massachusetts Rent Control Ballot Campaign Fails

*Lance Reynolds, Boston Globe, November 11, 2023*

A campaign to place a rent control question on the 2024 ballot has failed, as it faced a near impossible task of collecting the required amount of signatures within the next two weeks.

The initiative had collected roughly 10,175 signatures over the past six weeks, far short of the 74,574 required by Nov. 22 for the question to advance in the process, according to state Rep. Mike Connolly, who organized the effort.

The Cambridge Democrat announced the development on Friday night, much to the delight of groups who argued that the measure shouldn't be placed on the ballot. The proposal looked to allow municipalities to regulate residential evictions, rents and fees, broker fees, and the removal of housing units from the rental market.

Connolly said his group, of more than 500 elected officials, individuals and organizations, suggested it band together with Homes for All Massachusetts, a statewide housing justice coalition, to collect the required signatures and then decide how the question should proceed. "In the meantime, we could use the petition as an organizing tool and as a point of leverage with the legislature," Connolly said in his Friday update. "That would have afforded us more flexibility and a bigger opportunity for winning rent control right now. But it was not to be."

Homes for All Massachusetts "maintained that rent

control cannot win at the ballot box in 2024, and they publicly demanded that we withdraw our petition," Connolly added.

But in a statement provided to the Herald, Homes for All indicated the coalition is not totally opposed to putting a rent control question on the ballot at some point in future.

"We are focused on advancing our priorities in the Legislature this session to address this urgent crisis," the coalition said, "and if the Legislature does not act in a timely manner, we will continue to build the statewide campaign for rent control through both legislative and ballot strategies over the next few years."

Bringing rent control back to the Bay State has been a battle advocates have fought since 1994, when residents voted to ban it.

Supporters of the measure say it will help renters who are struggling to keep up with surging prices in the state's largest cities. But landlords argue they too are trying to make ends meet amid increased prices and taking away rent increases hurts their business.

Attorney General Andrea Campbell in September certified more than 30 voter initiatives, which meant they passed an initial technical and constitutional review. Those that received the green light need to gather 74,574 signatures before Nov. 22 to advance.

### *Join Us for Quarterly Social Mixers with Fellow Members*

<https://www.bpoa.org/events/>

DATE	TOPIC
Wednesday, December 6, 12:00 pm	Diversifying Your Financial Portfolio
Thursday, December 14, 5:30 pm	Holiday Party
Wednesday, January 10, Noon	The ABCs of Building ADUs
Wednesday, February 7, Noon	Legalizing Non-Confirming Units: Permitting the Unpermitted

*And...check out our Rental Housing Provider 101 series. Whether you're new to rental housing or just want to brush up on your skills, we'll teach you the basics of being a housing provider in Berkeley. This series is available for playback in the members-only Content Library on our website.*



# New Law Allows Tenants to Not Pay Rent in New York State

Ron Banks, Wyrk, November 14, 2023

There is a new law in New York State that allows tenants to stay in the home they are renting even if they do not pay.

If you know anyone who owns a rental property, hopefully, things are going well. New York State has put a ton of new laws in place that makes things more clear in a ton of different aspects of the landlord-tenant relationship.

If you have someone who is a horrible tenant, look how long they can LEGALLY and technically live in your rental unit! An entire year!

The new Attorney General, Letitia James, has a section outlining new protection for evictions, according to the New York State website:

- If you lose a housing case and the judge orders your eviction, you can ask the court for up to one year to move

if you can show that you cannot find a similar apartment in the same neighborhood. The judge will take into account your health conditions, whether you have children enrolled in school, the hardship on the landlord if you remain, and any other life circumstances that could affect your ability to move.

- The new law strengthens protections for tenants against retaliatory evictions and increases penalties for landlords who illegally lock tenants out of their homes.

Now, it is important to keep in mind that there is a complete other section for evictions that are for non-paying tenants with even more specifications.

## New York Rent Control Still Before Supreme Court This Year

### BPOA

As we reported in a recent issue of your newsletter, the US Supreme Court rejected two challenges to New York's rent control law. The issue, however, is not dead. There are two other cases from New York City which remain under consideration for this year's docket.

The court considers which cases to take at (more or less) weekly conferences. These two cases have been on the agenda eight times since August. They are still alive.

One case is 74 Parkhurst LLC v. New York (22-1130). The

issues here are (1) Whether a law that prohibits owners from terminating a tenancy at the end of a fixed lease term, except on grounds outside the owner's control, constitutes a physical taking; and (2) whether allegations that such a law conscripts private property for use as public housing stock, and thereby substantially reduces its value, state a regulatory takings claim.

Linked to 74 Parkhurst is 335-7 LLC v. City of New York (22-1170). Dealing with similar subject matter, the two

*continued on page 16*

## COMING ATTRACTIONS

### *Diversifying Your Financial Portfolio*

Wednesday, December 6, 12:00 pm

### *Holiday Party*

*Berkeley Yacht Club*

Thursday, December 14, 5:30 pm

### *The ABCs of Building ADUs*

Wednesday, January 10, Noon

### *Legalizing Non-Confirming Units: Permitting the Unpermitted*

Wednesday, February 7, Noon

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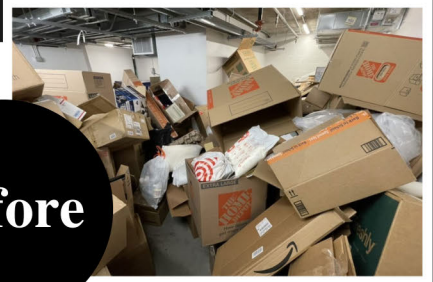
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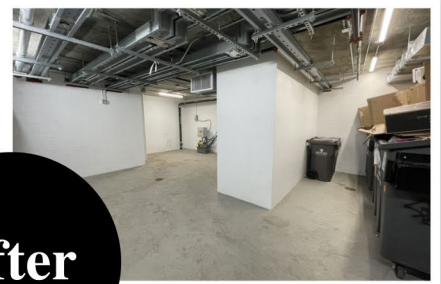
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strength of the demand for housing is inversely proportional to the distance from campus. Berkeley rents are what they are because of the University of California.

As providers of rental housing in Berkeley, we owe much of our market to UC. The thousands of people affiliated with the university generally want to live closer rather than farther from campus. This demand is immutable. The only thing that might disrupt this is something which essentially closes UC down. That would have been unthinkable before Covid. However, that a pandemic actually did negatively affect the local rental market just proves the point. UC is in fact the source of much of the demand for housing in Berkeley. Save the unlikely occurrence of routine pandemics, we are largely immune to a declining market. All in all, a pretty good situation.

## QUOTE OF THE MONTH

*Christmas is a time when kids tell Santa what they want and adults pay for it. Deficits are when adults tell the government what they want and their kids pay for it."*

— Richard Lamm

## Port Hueneme City Council Soundly Rejects Rent Stabilization and Additional Restrictions

AAGLA, October 4, 2023

At its October 2nd meeting, the Port Hueneme City Council debated rent stabilization, expanded restrictions on No-Fault evictions and substantially increased relocation fees modeled on similar, severely ordinances passed last year in the cities of Oxnard and Bell Gardens.

Efforts by the Apartment Association of Greater Los Angeles (AAGLA) achieved a significant victory by defeating all of these harmful proposed policies. This outcome is a testament to the incredible dedication and united effort of our members and multifamily owners with support

from our allies at the Ventura County Coastal Association of Realtors.

The City Council's decision to reject these highly detrimental proposed policies was largely influenced by the significant in-person and virtual presence of AAGLA members and other multifamily owners. Our advocacy efforts, both before and during both meetings, played a pivotal role in ensuring that these potentially harmful changes did not become a reality. Your Owner voices and actions mattered, and they continue to shape the landscape of local legislation.

## Supreme Court

cases are being considered together. With this second case, the issues are (1) Whether New York's Rent-Stabilization Laws and accompanying regulations effect a per se physical taking by expropriating petitioners' right to exclude; (2) whether the laws effect a confiscatory taking by depriving petitioners of a just and reasonable return; and (3) whether the laws effect a regulatory taking as an unconstitutional use restriction of petitioners' property.

The Court usually takes 70-80 cases a year. They have so far accepted for review only fifty or so. There is room on the calendar. That these two cases have not been rejected to date is grounds for hope. We will keep you posted.

## From the Archives





from page 3

## Corner

rental housing in this manner. We know these are unrealistic objectives that only seek to increase costs for both cities and the individual taxpayer. There are never any financial plans put forward to explain where the money will come from to obtain all this housing (other than further taxing the already heavily taxed). We can't stand it and we won't!

By supporting the BRHC with an upgraded membership, you help to secure a seat at the California legislative table. Between local politics and state politics, there is always a threat to your business that we are working hard to fight. To learn more about upgrading your membership contact Krista Gulbransen, [krista@bpoa.org](mailto:krista@bpoa.org).

from page 5

## S.F. Demand Lags

And there's the state's persistent lack of housing, which gives major landlords like Essex an edge when it's difficult to add more inventory.

"We've all seen the acute housing shortage in California and despite Gov. Newsom's efforts to enact multiple legislations to spur housing production, it just has not moved the needle in a meaningful way," Kleiman said. "I go back to (Newsom's) original goal of 3.5 million homes ... to be built by 2025. Currently they're on track and have issued about 450,000 permits."

"So that gives you the magnitude of how we view supply and why we do believe that it will remain favorable," she said.

from page 9

## Roommates

to End Domestic Violence also have information related to domestic violence and housing protections for survivors. While renting to roommates comes with unique considerations for property owners, the right precautions can help preserve relationships and prevent conflict. "There's a relationship involved there," Weed says, "and it's important to keep that in mind."

**Story by J.P. Morgan** is a new real estate management platform from JPMorgan Chase featuring digital rent collection, market insights, educational content and more for multifamily property owners and investors.

from page 10

## Height Limits

Some Berkeley residents have expressed concerns that the changes would permit too much density without greenery. The council's vote directed the city manager to look into incentives or requirements for new housing projects citywide that would allow for widened sidewalks, activated pedestrian spaces and green roofs.

Tuesday's vote was part of the city's efforts to comply with California requirements to build more housing. The City Council will consider further proposed changes to generate affordable housing for middle-income households and to undo single-family zoning next year.



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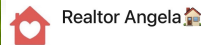
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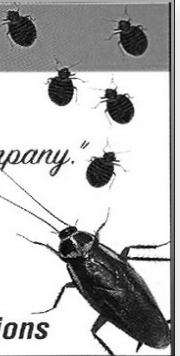
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#### *Diversifying Your Financial Portfolio*

Wednesday, December 6, 12:00 pm

#### *Holiday Party*

Thursday, December 14, 5:30 pm

#### *The ABCs of Building ADUs*

Wednesday, January 10, Noon

#### *Legalizing Non-Confirming Units:*

#### *Permitting the Unpermitted*

Wednesday, February 7, Noon



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