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2024



*The Advocate for
Berkeley's Rental Housing Providers*

*Founded 1980 • Charter Member, California Rental Housing Association
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California's New Security Deposit Law

Mark Tarses, President, BPOA

California has a new security deposit law. Up until now, a landlord in California could charge a security deposit equal to two month's rent if an apartment was unfurnished or three month's rent if an apartment was furnished. Under the new law, the maximum deposit is one month's rent, whether the apartment is furnished or unfurnished. The purpose of this law is to make it easier for people with limited financial resources to rent an apartment by reducing the amount of money required to get a lease; however, this law creates a financial incentive for landlords to do just the opposite.

Under the old law, an applicant for an apartment in California might have to come up with three month's rent in order to rent an apartment, the first month's rent plus two month's security deposit. So, if an apartment is \$3,000 a month, an applicant might need to give the building manager \$9,000 to get a lease. What percentage of people in our society have \$9,000? Fifty percent of all Americans have less than \$1,000 in lifetime savings.

Why do landlords want security deposits?

The reason that property owners want security deposits is so that they won't lose money if a tenant moves out with unpaid rent or with expensive damage to the apartment. With a deposit of only one month's rent, a tenant could opt to not pay his/her last month's rent and then the owner would have nothing left to pay for damages."

The less money that a landlord is holding in the security deposit, the more risk the landlord is taking by renting an apartment to someone who is living paycheck to paycheck. This new law creates a strong incentive for landlords to only rent apartments to people with high credit scores and serious money in the bank. That is the opposite of this law's intention. The mentality behind this law is that if something is bad for landlords, it is good for tenants. I have never been able to convince people who think that way that they are wrong, and that the world doesn't work that way.

COMING ATTRACTIONS

Legalizing Non-Confirming Units

Wednesday, February 7, Noon

Meet & Greet:

Alameda County Supervisor Candidate

Wednesday, February 7:30 pm

***Making the Most of Resident
Application & Screening Tools***

Thursday, February 29, 3:00 pm

See pages 13 & 14 for details & more events!

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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

Editorial

Social Housing

Albert Sukoff, Editor

Concerning national economies, Nobel laureate Simon Kunitz once said: *There are four kinds of countries in the world: developed countries, developing countries, Japan and Argentina.* If you are into macro-economics — and who isn't? — you will understand this comment. If not, take my word for it; the quote is both accurate and funny.

One can create a close-but-no-cigar corollary about housing markets. *There are four kinds of housing markets in the world: those in which housing is market provided, those in which it is governmentally provided and then there is Vienna and Singapore.*

Vienna and Singapore are frequently touted as having solved the housing problem. There are many posts on YouTube about their housing programs. Both cities, particularly Vienna, do very well in ratings of the most livable cities in the world. Both cities, again particularly Vienna, have rental housing which is affordable by first-world standards. One survey showed rents in Vienna at 8.7 euros/square meter/month compared to 10.4 in Budapest and 15.9 in Hamburg. At least in terms of affordability, these cities are clearly doing something right.

In both Vienna and Singapore, the government is a major — make that *the* — major player in providing housing. Vienna mainly has three housing types. Old Housing (33%) which is privately owned but highly regulated. This includes rent controls. Association Housing (21%) is owned and run by non-profit organizations and then there is straightforward Public Housing (22%) which is government built, owned and operated. The remainder is the housing stock is comprised of condominiums (13%), privately-owned houses (6%) and other (5%). With some-to-total control of three quarters of the housing, clearly the government is the main actor in this housing market.

Vienna has a century-old tradition of government involvement in housing. It started almost out of necessity after WWI with left-leaning government and has continued ever since.

In Singapore, 80% of the people live in “social apartments.” This city-state got its independence in 1959 and was run by Lee Kuan Yew until 1990. Lee came as close to the mythical benevolent dictator as one could imagine. He ran a tight ship and individual freedoms were limited by western standards. Extreme measures notwithstanding, however, Lee pretty much used authoritarian power to benefit the country rather than the usual cadre of crony kleptocrats. Since 1959, Singapore has gone from very poor to very rich.

Housing in Singapore has been the purview of the Housing and Development Board, an agency of the government which inherited, bought and created land. The Board had no pesky limits to its power, like the takings clause of the US constitution or neighborhood input. Most, maybe all housing in Singapore is on government-owned land under 99-year leases.

The government in Singapore is heavy handed in applying public policy to housing. Ethnic limits are applied to housing projects to prevent single-entity

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❖ 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.**

March 5, 2024 Primary — What's at Stake for Rental Property Owners

Presidential election years are always bound to be some of the most hotly contested and have the most at stake for our industry. Most have their eyes on the November 5 date, and few pay attention to the March 5 primary.

Primary elections play a pivotal role in determining the candidates who will represent their respective political parties in the forthcoming general election. There are two types of primaries — a closed primary and an open one. Closed primaries restrict voters to casting their ballots solely within their affiliated party. Open primaries permit voters to participate in primary, irrespective of their party affiliation. This means that a registered Democrat can partake in a Republican primary, and vice versa. The March 5 primary will be an open primary.

Primary elections afford voters the crucial opportunity to select, from a pool of candidates, who should be nominated by their political party to contest in the general election. The top two candidates that receive the most votes (irrespective of political party affiliation) will go on to the November general election.

Alameda County Board of Supervisor, District 5

For many years, the BPOA has not had to pay as much attention to the Alameda County elected seats as it did the Berkeley-specific ones. But when the pandemic hit and eviction moratoria were multiplying like crazy, we quickly learned the impact of the supervisor's decisions. Although Berkeley had its own eviction moratorium, it also pointed to Alameda County's eviction moratorium as additional protection for tenants. When two of the supervisors passed away (somewhat unexpectedly) last year, rental housing providers seized the opportunity to place candidates that were more understanding of our challenges.

Then in December of last year, long-time District 5 supervisor Keith Carson abruptly decided not to seek re-election. This opened up a large opportunity for rental housing providers to finally have an Alameda County Board of Supervisors that was more favorable to our struggles.

Fellow rental housing provider, and current East Bay Rental Housing Association board member Chris Moore has thrown his hat in the ring. He has raised a significant amount of money thus far but still needs more to win

the March 5 primary. He vows to make sure that harmful rental housing legislation is kept at bay. This will be especially important when the next pandemic hits our country. You can learn more about him and how to help his campaign at www.chrismooreforsupervisor.com

California Senator, District 9

District 9 Senator Nancy Skinner will be terming out this year. It will be a hotly contested race to replace her and one we will be watching closely. It will all start with the primary on March 5. That election will narrow down the pool to two candidates who will go head-to-head in November. Berkeley's current Mayor (Jesse Arreguin) is vying for the seat and has a good chance of securing himself a position in the November race. If he wins the March primary, he will be required to give up his re-election campaign as Berkeley mayor, opening up the door for the Mayoral race in November. The mayor has been seen as a slightly more "moderate democrat" in Berkeley in the last year and has lost favor with local social housing activists. However, he has vowed to become a part of the new Renters Caucus at the state capitol should he win in the general election.

This poses a bit of a conundrum for us here in Berkeley. Do we hope he goes on to win the March primary and permanently leave the Berkeley Mayoral scene? Or do we hope he loses so that we aren't stuck with a worse option as mayor? Those currently running for the mayoral seat are Councilmember Kate Harrison and Councilmember Sophie Hahn — both of whom have either supported or proposed harmful rental housing legislation in Berkeley.

All this to say — don't forget to vote on March 5!

Consider upgrading your membership to be a part of the Berkeley Rental Housing Coalition. Your membership assures you that you are a part of the political and legal fight to protect your interests. To learn more about upgrading your membership contact Krista Gulbransen, krista@bpoa.org.



UC Berkeley Sends Hundreds of Police Into People's Park, Closing off Historic Space

Michael Cabanatuan, Sarah Ravani, San Francisco Chronicle, January 4, 2024

UC Berkeley sent hundreds of police officers into People's Park early Thursday and began closing off the historic space with double-stacked shipping containers in preparation for the construction of a controversial student housing project.

The move to close off the public space comes nearly a year after a state appeals court ruled that UC Berkeley failed to adequately address environmental concerns in its \$312 million plan to build housing for about 1,100 students and more than 100 of the homeless people who regularly camp on the 2.8-acre site. The case is now with the state Supreme Court and remains unresolved.

People's Park has long been the site of free speech and civil rights movements. Opponents to the university's student housing project argue that the space should be preserved as a historic location, and that the university should look at other sites for housing. The university argues that it's in dire need for more student housing — UC Berkeley provides housing for only 23% of its students, the lowest rate in the University of California system — and that fires and crime in the park and around it have played “an important role in the closure plan.”

Just after midnight on Thursday, the university confirmed plans to block off the park as a “closed construction zone” and hundreds of police and California Highway Patrol officers barricaded the streets within two blocks of the park. About 60 protesters held a vigil inside the park, but were outnumbered by police in riot gear, some with batons or rifles in their hand, and were removed.

“We don't hide behind batons and guns,” one protester shouted through a megaphone. “you ... cowards.”

Seven people were arrested on suspicion of trespassing — two of whom were also cited for allegedly refusing to disperse, according to a university spokesperson.

UC Berkeley Chancellor Carol Christ said in a statement that the university decided to take “this necessary step” to secure the site with minimal disruption in preparation for “when we are eventually cleared to resume construction.”

“Unfortunately, our planning and actions must take into account that some of the project's opponents have previously resorted to violence and vandalism, despite strong support for the project on the part of students, community members, advocates for unhoused people, the elected leadership of the City of Berkeley, as well as the legislature and governor of the state of California,” Christ said.

In August 2022, prior to the litigation over the site, the university attempted to fence off the park and start construction but were blocked by protesters who opposed the project.

Closing off the park was expected to take several days, the university said.

Police quietly towed vehicles in the surrounding streets of People's Park and workers in orange vests used chainsaws, hammers and their gloved hands to dismantle a make-shift kitchen that had been constructed by people living in the park. By about 2 a.m., two large rental trucks filled with cardboard boxes arrived and workers removed unoccupied tents and their belongings from the park, packing them into boxes and hauling them off. People inside their tents were told to pack up and leave.

Meanwhile, tree cutters began removing three large trees at the east end of the park along Bowditch Street, chain-sawing massive limbs that fell to the ground with loud thuds. An earthmover removed debris from the dismantled kitchen. A block away from the park, on Telegraph Avenue, about 30 protesters unable to get inside gathered behind a blockade of metal barricades, four police cars and several dozen law enforcement officers.

They chanted “Whose park? People's Park” and shouted insults at the police. As police pushed the few remaining protesters from the park, someone started blaring the Buffalo Springfield song “For What it's Worth.”

The first shipping containers were placed on the eastern edge of the park, on Bowditch Street, around 4 a.m., dropped into place with a forklift.

Despite the face-off, the mood in the park was relatively calm. UC Berkeley spokesperson Dan Mogulof said a total of 160 shipping containers will be used to block off the park.

“So far, so good,” Mogulof said of Thursday's operation just before 6 a.m. “But I don't want to be sanguine; we know there's a large part of the community opposed to this project.”

On social media, supporters of keeping the park open called on others to join them in a fight to block the university from putting up fences. At about 6 a.m., about 20 protesters remained behind a police about just outside the park. Activists scheduled a rally and march from Telegraph Avenue and Haste Street for 11 a.m.

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People's Park Foes to Press on with Suit

Bob Egelko, San Francisco Chronicle, January 6, 2024

UC Berkeley's plan to build student housing at People's Park has won support from state lawmakers and Gov. Gavin Newsom, and police and Highway Patrol officers have barricaded the site to keep protesters out. But neighborhood groups opposing the project still have a case before the state Supreme Court, which could require the university to take a closer look at the local impacts of its housing construction — at least in future cases.

"Whether housed by UC or not, students will generate social noise impacts off campus in Berkeley's neighborhoods and streets," and the University of California should be required to consider alternatives that would be less disruptive, lawyers for Make UC a Good Neighbor and the People's Park Historic District Advocacy Group said in their most recent filing with the state's high court.

The university's \$312 million project would build housing for about 1,100 students and for more than 100 of the homeless people who regularly camp on the 2.8-acre site south of the Berkeley campus. The court agreed last May to hear UC Berkeley's appeal of a lower-court ruling that said UC had failed to consider alternative housing sites or the impact on neighborhood residents of noise generated by the students.

Lawyers for Newsom, who supported the appeal, had told the court last April that the case "provides an opportunity for the Court to reaffirm that CEQA (the California Environmental Quality Act) is a tool to ensure public participation, informed decision-making, and thoughtful development — but not an instrument to block necessary progress or deny to others safe, healthy, and affordable housing."

Then in September, the governor signed AB1307 by Assembly Member Buffy Wicks, D-Oakland, which exempted UC Berkeley from any previous legal requirement to consider other sites for the project, and also said noise from future residents was irrelevant to environmental reviews of a housing project. That law effectively resolved the case, the university's lawyers contended.

AB1307 means that California's environmental law, which requires review of the impact of state-approved construction, can no longer "consider people as pollution," attorney Jeremy Rosen told the court, quoting Wicks' description of her bill. Rosen urged the justices to uphold UC's approval plan "quickly so that the construction on the urgently needed People's Park project can resume."

Not so fast, said Thomas Lippe, a lawyer for the neighborhood groups.

UC Berkeley has more than 45,000 students and has forecast adding 8,500 more in the next 12 years, along with 3,600 employees. While AB1307 exempts the university from considering the neighborhood impact of noise from residents of the planned People's Park housing, Lippe wrote, state law still requires UC to find alternatives to "noise impacts throughout Berkeley's neighborhoods caused by all of the students included in the ... projected enrollment-driven population increase, whether housed in UC residential projects or not."

"This noise will be caused, not just by UC's residential project occupants and their guests, but by all of the persons added to Berkeley's neighborhoods, many of whom UC will not house," Lippe told the court.

And even though the new law means the court no longer has to decide whether UC Berkeley should have considered sites outside People's Park for new student housing, the attorney said, "the Court should decide the issue anyway because it raises issues of broad public interest that are likely to recur."

After granting a review, the court generally schedules a hearing only after reaching a tentative majority vote among its seven justices, as a ruling is legally required no more than 90 days later. No hearing has been scheduled, but the justices have given no indication that they plan to dismiss the neighborhood groups' case without hearing arguments and issuing a ruling. Until then, construction of the housing project is on hold.

The case is *Make UC a Good Neighbor v. UC Regents*, S279242.

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In San Francisco, Tenants Use Labor Tactics to Challenge Their Landlords

Heather Knight, New York Times, January 15, 2024

Auto workers in Detroit. Actors and screenwriters in Hollywood. Teachers in Portland, Ore.

During a wave of labor unrest over the past year in which more than 500,000 American workers went on strike, a small group of San Franciscans has brought a similar vein of activism to a different arena: their homes.

Tenants in 65 San Francisco households have been on a rent strike, some for nearly eight months, withholding their monthly payments over a host of issues they say have made their living conditions difficult.

A handful of rent strikes have occurred before in New York City and Los Angeles. But activists, with renewed fervor, are now trying to organize tenants around the nation, saying that corporations, rather than mom-and-pop landlords, are increasingly buying up apartments and not taking care of the units.

“Most tenants these days don’t know their landlords. They’re nameless, faceless LLCs,” said Tara Raghuveer, director of the Homes Guarantee campaign, which is working to establish tenant unions such as the one in San Francisco. “Naming and shaming doesn’t work. Rent strikes will become an even more necessary tactic.”

Yue Lin Wu, a tenant at an apartment building in San Francisco, speaks with Katelynn Cao of the Housing Rights Committee of San Francisco about the ongoing rent strike.

In 2022, city leaders passed Union at Home, the first legislation of its kind in the country. It lays out a path for tenants to form their own associations and requires landlords to bargain with them, just as an employer must meet with unionized workers.

The law protects tenants who want to use common spaces for organizing activities or invite advocates to talk to residents about their rights.

Within a year, tenants in 55 San Francisco buildings formed their own associations that called for a range of improvements, including quicker repairs, lower charges for utilities and translation of materials for renters who do not speak English. Most of the associations have not initiated a strike.

Tenant associations exist in other cities, but do not have the city-provided leverage to demand that their landlords bargain in good faith that San Francisco tenants have.

Ms. Rodriguez’s 3-year-old daughter, Dara, watches a

show as she rests her feet on the plastic storage bins that the family uses to protect their belongings from mold.

Ms. Rodriguez displaying a picture of the mold that was in her apartment before it was painted over in March.

Luisa Rodriguez, 38, immigrated to the United States from El Salvador in 2020 with two children, now 9 and 18, and had a third child in San Francisco. The family lives in a small studio apartment on the sixth floor of their building and are charged \$1,600 a month. Ms. Rodriguez, who works as a cook, has not paid her landlord since June. Tenants on strike are paying their rent instead to a trust fund that is being held until their demands are met.

Ms. Rodriguez and her children sleep together in two beds pushed against one wall to put as much distance as possible between them and a space where mold has continually appeared.

She showed pictures on her phone of green fuzz on the window frame that stretched down the wall. She said it had spread to clothes in a closet near the window, too, forcing her to throw out items she could not afford to replace.

She showed copies of letters from a doctor at the San Francisco Health Network that told her landlord, “The mold is endangering the health of your tenants,” and asked for immediate action.

Veritas Investments, which owns the building where the Rodriguez family lives, said that workers repaired a crack in the family’s window, used drying equipment to address water intrusion and treated, sealed and painted the window and frame to prevent the mold from returning.

Though the mold was no longer visible on a recent night, the family was not confident the problem had been solved. Dara, 3, continues to cough at night, keeping the family awake, Ms. Rodriguez said.

The dispute highlights a big problem in San Francisco’s housing stock: old buildings that are increasingly expensive to maintain and, in a city notoriously short on housing, among the few options for low-income renters.

Veritas is one of the largest landlords in San Francisco and owns most of the buildings where tenant associations have declared a rent strike. Its holdings in the city, though, are shrinking. Like other building owners in the city roiled by the pandemic, Veritas defaulted last year on loans and is selling parts of its huge portfolio.

East Bay Man Accused of Real Estate Scam That Bilked Dozens

Nora Mishanec, San Francisco Chronicle, January 27, 2024

A Nigerian man who allegedly posed as a Bay Area real estate agent to scam people into paying him what they thought were rental deposits has been charged with defrauding people out of more than half a million dollars in a yearslong scheme, authorities said.

Barnabas Jime, 29, is facing one charge of conspiracy to commit wire fraud after he allegedly posted false real estate listings online and illegally took money from people looking to lease the properties, according to the U.S. Attorney's Office for the Northern District of California. This week, Jime waived his right to prosecution by indictment, an indication that prosecutors have enough evidence against him to proceed directly to trial.

Federal agents began investigating Jime in July 2022 for his role in a romance scam. A person identifying themselves as a victim of the scam filed a complaint with the Emeryville Police Department alleging that they sent money to Jime's Emeryville address.

Federal prosecutors said they uncovered a far-ranging real estate scheme Jime allegedly carried out from June 2021 to May 2023.

According to prosecutors, Jime and several unnamed co-conspirators created false online listings for apartments they did not own and duped more than 100 potential

renters into paying deposits totaling \$680,000. In some cases, prosecutors allege that they "found methods of showing these properties to prospective tenants" despite having no connection to the properties.

Prospective tenants transferred funds to accounts that Jime had opened under fake names using false identity documents, prosecutors allege.

Jime could face up to 20 years in federal prison if convicted. The federal public defender assigned to his case could not immediately be reached for comment.

In court filings detailing Jime's alleged scheme, a potential renter who was based in Texas and looking for a rental in the Bay Area told prosecutors that he paid a total of \$2,650 to "hold" a property that did not exist. Jime allegedly asked the person to sign a lease agreement that required them to pay a security deposit, first month's rent and last month's rent before receiving keys to the apartment.

According to prosecutors, bank records indicate that Jime used Kenyan passports to open bank accounts under two fake names — Thomas Kirkpatrick and Patrick Warren. No records exist for the Kenyan passports, but the photographs used match the U.S. visa for Jime's Nigerian passport, prosecutors said.



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The Nuts & Bolts: Micromobility Devices

Tiffany Van Buren, BPOA Deputy Director

An Easy Way to Get Around Town, A Headache for Housing Providers

Micromobility refers to a range of small, lightweight personal vehicles — primarily bicycles, scooters, and skateboards — usually traveling at speeds no faster than 25 MPH that, when powered by electricity, are called micromobility devices. Super popular in college towns, e-bikes and e-scooters offer a relatively low-cost, environmentally friendly way of getting around. But there is a dark side to these seemingly innocuous methods of zipping hither and yon — lithium-ion batteries!

Lithium-ion batteries can be hazardous while charging. Fires may occur if a battery has:

- Suffered impact damage.
- Aged and deteriorated in quality.
- A manufacturing flaw.
- Been charged or stored in extreme temperatures.
- Been overcharged.

Thermal runaway is another risk; when this occurs, high temperatures produce exothermic decomposition of the battery cell, causing the battery to rupture and a thermal explosion. Lithium-ion battery fires burn hot and emit toxic gasses. They can be unpredictable, spread quickly, and are not easily extinguished.

SB 712, which the governor signed into law last October, modified CA Civil Code 1940.1. As of January 1, 2024, it gives certain tenants the right to own, store, and charge “personal micromobility devices,” defined as powered by the physical exertion of the rider or an electric motor and designed to transport one individual or an adult accompanied by up to three minors, within their rental units. Each occupant can store a device.

There are conditions the device must meet.

- For e-bikes, they must comply with the UL 2849 Standard for Electrical Systems, as recognized by the US CPSC, or EN 15194, the European Standard for electrically powered assisted cycles (EPAC Bicycles)
- For e-scooters, UL 2272, the Standard for Electrical Systems for Personal Mobility Devices, as recognized by the US CPSC, or EN 17128, the European Standard for personal light vehicles (PLEV).

Furthermore,

- The device must be insured under an insurance policy covering the storage of the device within the tenant’s dwelling unit.

Per this new law, an owner would be allowed to prohibit in-unit storage only if 1) the tenant failed to obtain proper insurance 2) the device did not meet UL or EN standards, or 3) the owner provided “secure, long-term storage,” which must meet all of the following conditions:

- Access is limited to residents of the same housing complex.
- It is located on the premises.
- It is reasonably protected against precipitation.
- It has a minimum of one standard electrical connection for each personal micromobility device that will be stored and recharged in that location.
- Tenants are not charged for its use.

What would a long-term storage solution look like? An uncovered bike rack doesn’t meet the “reasonably protected against precipitation” condition, even where there’s access to electricity. Preferably, you’d designate a section of a garage since they are more fire safe in general, but a bike room is a reasonable alternative. If the room you choose is already wired with electricity, it can be fortified with an extra layer of sheetrock to make the walls one-hour fire retardant. Install a smoke alarm (or a heat detector if there are laundry machines in the space). Adjust the number of electrical outlets to ensure there are enough outlets for each tenant to have a dedicated plug. If you don’t provide sufficient outlets, your tenants will resort to unsafe charging methods, such as extension cords and power strips. While you’ll have to absorb the cost of electricity, you won’t have to worry about explosions and fires inside your rental units, and the danger is real. Here are some recent news headlines: *Electric Bikes Start Record Number of Fires in NY*; *E-Bike Battery Fires: A Deadly Problem*; *Despite Condo & Co-Op Rules, Deadly E-Bike Fires Rise*. Scary.

If you cannot provide a storage alternative, provide education. Use our *Micromobility Device Addendum* and accompanying *E-bike and E-Scooter Safety Sheet*. These are the minimum safety guidelines all lithium-ion charging consumers should be aware of:

- Use only a charger manufactured for your device or equipment.
- NO POWER STRIPS OR EXTENSION CORDS — always plug your charger directly into a wall outlet.

continued on next page

Three Simple Maintenance “Hacks” to Keep Your Building Healthy

By David Crown, Chief Executive Officer, Los Angeles Property Management Group

Sometimes The Simple Fixes Are the Most Impactful

I once knew someone who ignored a termite report, thinking the problem couldn't really be that bad. They then had to completely reframe a four-unit building, replacing every single piece of wood in two of the units. Who was the foolish owner in that scenario? That was me. I was relatively lucky — it only ended up costing me about \$50,000 to fix that quadruplex, but that's still an expensive lesson, and believe me, I learned it. I've been in property management for three decades now, and in that time, I've seen the best and the worst of what this industry has to offer, ranging from impressive workmanship to a few tragic mistakes.

I've written about preventative maintenance before, but it's a subject I couldn't possibly exhaust in one article — or ten. Nor can I overstate its importance to this industry. It might be the best thing we do for rental property owners, maybe even the best case for property managers to exist at all. Preventative maintenance isn't just about cautionary tales. You're not just averting disaster by taking these measures; you're shrewdly pushing your property to the highest level of its potential profits. It's better to go out of your way to do something smart than it is to just avoid doing something dumb.

To that end, here are three preventative maintenance “hacks” that will significantly impact the “health” of your building in the long term.

Main Line Cleaning

This service scrubs out your main line of any debris or blockages. It will extend the life of your building's sewer main by many, many years. It's one of the most effective but neglected maintenance hacks out there. Don't assume your current management has already thought to have it done — this is something to ask about. The cost of a new main line is far higher than the cost of getting a main line cleaned. This actually serves as a fairly reliable measure of capable managers. If your management company can tell you the last time they scrubbed out your main line, you're probably in good hands.

Gutter and Downspout Cleaning

Sounds stupid simple, but a lot of people never have it done. It's crucially important to help water drain from the roof. Especially in a year like the one we've had, with record rainfall, it goes a long way in keeping your property safe and leak-proof. Anybody who's ever had to deal with

a mold remediation situation can attest to the importance of keeping unwanted moisture out of a rental property, and the astronomical costs that can come with failure to do so. I walked through a prospective client's building a week ago that had three apartment units stacked on top of each other, and all of them were entirely ruined by one leak.

Strategic Hiring

The third “hack” wears boots! That's right, it's a team that keeps a careful calendar and performs all of the above and more maintenance actions on a regularly scheduled basis. Once, I was walking a property to inspect it when my colleague and I found a lit pilot light that was burning yellow, which meant it was emitting carbon monoxide. Thankfully we took action and immediately fixed the issue, but we might not have had the chance if we hadn't been there in the first place conducting our inspection. So, if you own apartments, I recommend hiring a management company with a dedicated maintenance team that runs on a strict schedule, visiting properties often and inspecting them thoroughly.

Sometimes, the simple fixes are the most impactful, and if you overlook them, you risk winding up in one of my many cautionary tales. But none of this is rocket science or requires cutting-edge technology. I didn't get my Ph.D. from Harvard in Property Management. Apply these maintenance hacks to keep your property healthy.

from page 8

Nuts & Bolts

- Do not leave batteries unattended while charging, and do not charge overnight.
- Do not charge near heat sources.
- Do not charge near anything flammable.
- Do not charge batteries near exit ways.
- Never charge a damaged battery.
- Do not keep charging the battery once it is fully charged.

If you have questions about how to use the Micromobility Addendum, don't hesitate to contact staff at BPOA@BPOA.org.

Opinion: Supreme Court Case from California Could Ease Housing Shortages

Charles Gardner and Emily Hamilton, Los Angeles Times, January 8, 2024

On Jan. 9, the U.S. Supreme Court will hear the case of Californian George Sheetz, who applied for a permit to put a manufactured house on his land in El Dorado County and got hit with a \$23,420 traffic mitigation fee. Objecting to the lack of any connection between the dollar amount and his family's actual impact on traffic in the area, Sheetz paid the fee but turned to the legal system. *Sheetz vs. County of El Dorado, California*, addresses just a small piece of the state's housing crisis. Nonetheless, it will matter for millions of people unable to find affordable homes here and in many other states.

When "impact fees" are unmoored from the increased costs a city or county will incur because of a new house or development, the fees can do more than present someone with an unfair bill — they can also reduce housing construction. In a country where a shortage of homes has led to sky-high prices, this matters more than you might think.

Developers should pay their fair share, of course. If construction fees fail to cover the costs of the increased public services required by new development, elected officials and voters turn to other means to cover or avoid those costs. They may impose growth restrictions or other exclusionary zoning policies to block the building of new homes rather than accept projects that lead to higher taxes or degraded services.

We see pervasive evidence of this happening when localities adopt rules such as single-family zoning, minimum lot-size requirements and aesthetic requirements that ensure that only expensive housing, which generates higher property taxes, can be built.

Properly set impact fees offer a way for development to pay its way, and they reduce political pressure against necessary growth. Local studies have found that appropriately set fees are associated with increased construction in suburban areas.

But when fees are set at arbitrarily high levels, they disincentivize new home building and add to the country's housing affordability challenges, causing strain for renters and new home buyers.

In 2013, the Supreme Court held that all permit fees must have an essential connection to the actual impact of a development on city or county services, and a roughly

proportional price tag. This sensibly reduces the risk that fees will choke off development.

In some states, such as Florida, jurisprudence goes even further, requiring that fees fund only infrastructure that serves the specific developments they were levied on. Not coincidentally, Florida has seen its population grow more than twice as fast as the country as a whole, reflecting its openness to new homes and relatively fair

But in other states, including California, Maryland, Washington and Arizona, courts have carved out an exception

to the Supreme Court's proportionality principle, allowing higher fees if they are set by legislation. Sheetz's case will test whether that exception is constitutional.

Part of the rationale for the carve-out is that voters have a remedy against excessive assessments at the ballot box. In theory, they can vote out the lawmakers who are responsible.

However, any claim that voters can and will actually do this is dubious. Housing developers are a small share of any electorate. Future home buyers or renters — those who need municipalities to incentivize, not discourage, home building — may not even vote or live in the jurisdiction when the fees are determined. On the other hand, the people who do vote are likely to be those who already own homes nearby, and they tend to resist growth: Their property increases in value if high fees keep the housing supply low.

The housing affordability crisis is real. Californians in particular should understand the simple calculus of supply and demand that is exacerbating homelessness and causing seven cities (or metro areas) in the state to rank among the 10 most expensive in the nation, according to U.S. News and World Report. When and where state courts allow local politicians to cater to their wealthiest constituents, charge exorbitant impact fees and otherwise keep out new homes, the situation won't improve.

The Supreme Court is expected to issue a ruling on the El Dorado County fees in the first half of 2024. The legal case that all impact fees, no matter who sets them, should be subject to the same conditions is strong. And during a nationwide housing crisis, the economic case against state and local practices that worsen housing affordability and impede needed housing production is even stronger.

The legal case that all impact fees, no matter who sets them, should be subject to the same conditions is strong.

CalRHA Legislative Update February 2024

California Rental Housing Association

With the new year and new leadership in the State Assembly, there have been several key committee changes that are pertinent to the rental housing industry. We have a new Chair of the Assembly Housing Committee with Christopher Ward out of San Diego. The Assembly Judiciary Committee is now Chaired by Ash Kalra (D-San Jose). The Assembly Local Government Committee has a new Chairperson, Juan Carrillo of Palmdale. The budget subcommittee no. 5 on housing is Chaired by Sharon Quirk Silva from Orange County and Vice-Chaired by Joe Patterson (R-Placer).

A key staff change is that Assembly Housing Committee staffer, Steve Wertheim, is leaving the Assembly Housing Committee to work for Assemblymember Wicks in Assembly Appropriations Committee. Lastly, with regard to Senate Leadership changes, the ProTempore Swearing-in for Senator Mike McGuire (D-Healdsburg) is scheduled for February 5th. As this is election year, there are many open seats. Ballots drop on February 5th for the March 5th primary election.

State Budget Update — Deficit Just \$38 Billion — Homelessness Prioritized

Governor Newsom presented his \$291.5 billion proposed state budget on January 10th. The projected deficit is only \$37.86 billion, which is much lower than the \$68 billion projected by the state's Legislative Analysts' Office. This

deficit is mostly due to the decline of the stock market and delay in tax receipts. The Governor proposes to close the deficit with \$18.8 billion in reserves / borrowing, \$11.9 billion in reductions / funding shifts, and \$7.2 billion in delays / deferrals. He also noted that this is a starting budget, and that May Revise will be "prime time".

Legislative Update

We expect to see many of the past legislative fights (e.g., The Costa-Hawkins Rental Housing Act, statewide rental registry, "ban the box" prohibiting inquiries about past criminal convictions) to resurface and 2024 promises to be another year requiring a strong defense. However, we have also been working alongside coalitions on accessory dwelling unit streamlining and on more balanced solutions in the rental housing regulatory space. Much of this month will be spent dealing with so-called "2-year" bills left over from last year's legislative session, as well as the introduction of new legislation.

Below are several key upcoming legislative calendar deadlines.

- January 19 — Last day to submit language to Leg Counsel
- January 31 — Last day for each house to pass bills introduced in their house of origin
- February 16th — Last day for bills to be introduced

S.F. Apartments Draw No Bids, Clearing the Way for Takeover

Roland Li, San Francisco Chronicle, January 20, 2024

There were no bidders Thursday during the auction for a huge portfolio of 62 distressed San Francisco apartment buildings — but a winner still emerged.

The auctioneer said that the "beneficiary" behind the defaulted mortgages would take over the properties, which had been owned by Veritas. Property records show that Brookfield, the Canadian conglomerate that also owns the Pier 70 and 5M projects, will now seize control of the buildings.

The auctioneer on Thursday, who declined to give his name, set minimum bids of \$386.25 million for one group of the properties and \$77.25 million for another group.

No one responded, so the mortgages were sold to the beneficiary. At the end of the auction, one man yelled "yes!" and walked away. His identity wasn't clear.

Brookfield completed a deal last month to acquire the

mortgages tied to the 62 properties along with 14 others, encompassing 2,165 apartments across numerous neighborhoods, including North Beach, Nob Hill, the Castro and the Richmond.

That's despite the company walking away from another major property, the ex-Westfield San Francisco Centre mall.

Goldman Sachs and other lenders had previously lent nearly \$1 billion to Veritas, which defaulted on the mortgages as the city's residential market swooned during the pandemic.

Brookfield and its partner Ballast will now be among the city's biggest residential landlords after no rivals bid during Thursday's auction, which drew only a few people, including reporters.

Veritas declined to comment, while Brookfield and Ballast officials couldn't immediately be reached for comment.

Berkeley's Ban on Gas Appliances Blocked

Bob Egelko, *San Francisco Chronicle*, February 4, 2024

Decision could affect similar laws across California and other states

Berkeley banned natural gas appliances in new buildings in 2020. A three-judge panel of the 9th Circuit Court of Appeals struck down the law, and the full court declined a new hearing.

A divided federal appeals court refused this week to allow Berkeley to enforce its first-in-the-nation ban on installing natural gas appliances in new buildings, a case that could affect dozens of communities in California and other states.

The ordinance, which took effect in 2020, was intended to reduce emissions of greenhouse gases that contribute to global warming. It was challenged by the California Restaurant Association, which contended it violated a 1975 federal law that authorized U.S. officials to set energy-efficiency standards for appliances such as furnaces and water heaters.

A three-judge panel of the 9th U.S. Circuit Court of Appeals struck down the law in April, saying Berkeley was trying to ban appliances that the 1975 law allows the federal government to regulate.

The panel, drawn at random, consisted of three conservative judges. Berkeley, joined by the Biden administration, other cities and states, and conservation groups, then asked the full appeals court, which has 16 Democratic appointees among its 29 judges, to order a rehearing. But only 11 judges, all appointed by Democratic presidents, voted for a new hearing Tuesday, and the ruling will now become final unless the conservative-majority Supreme Court agrees to review it.

The lead dissenter, Judge Michelle Friedland, said the decision “needlessly blocks Berkeley’s effort to combat climate change, along with the equivalent laws passed by other local governments. Our system of federalism requires much more respect for state and local autonomy.”

In a filing with the court urging a rehearing, President Joe Biden’s Justice Department said the ruling “cast a cloud of uncertainty over any health or safety law that may indirectly affect someone’s ability to use a product for which the federal government has issued an energy conservation standard.”

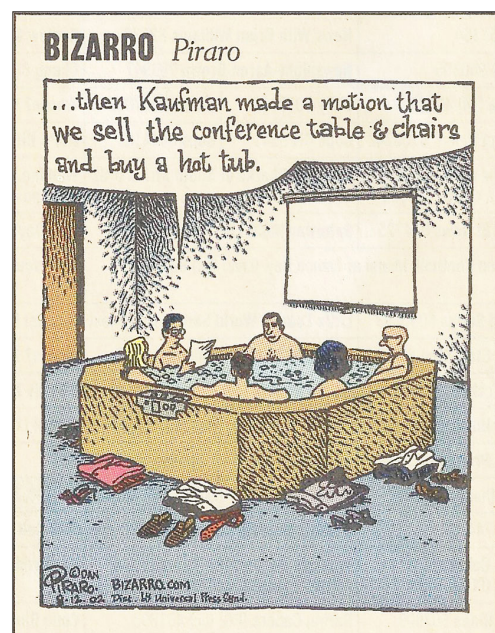
But Sarah Jorgensen, a lawyer for the California Restaurant Association, said the court had recognized that “energy policy was a matter of national concern and that there should be uniform national regulation.”

Sean Donahue, a lawyer for Berkeley, said the ruling was disappointing. The city’s ordinance “is well within its authority to protect the health and safety of its own residents,” he said.

The ruling could also invalidate laws in San Francisco, San Jose and Los Angeles banning gas-powered appliances in new buildings. Overall, more than 70 cities in California have either encouraged or required new buildings to use electric appliances. On the other side, at least 20 states have passed or are considering laws to prevent cities from regulating energy systems in new construction.

The Berkeley ordinance had been upheld in 2021 by U.S. District Judge Yvonne Gonzalez Rogers of Oakland, who said the city was not trying to regulate energy efficiency for suppliers, only the fuel they used.

But in the 9th Circuit panel’s 3-0 ruling in April, Judge Patrick Bumatay wrote that the 1975 federal law meant that states and local governments “could not prevent consumers from using covered products in their homes, kitchens, and businesses.” He said an ordinance that bans appliances such as gas stoves “impacts the ‘quantity of energy’” they use, which is exclusively regulated by the federal government.



Is Being a Landlord Immoral?

*This question was posed on reddit.com/r/CapitalismVSocialism/comment.
Posted were the usual array of responses ranging from
“rental-housing is a legitimate service” to “property is theft.”*

The best answer to the question defending the property owner position is as follows.

There's nothing immoral about it; someone spending their own money to acquire a property and offering it for rent, in no way prevents people who don't want to live in a rental from doing so. They can buy an existing home or buy a new home from a builder.

Landlords are providing shelter at affordable prices to people who maybe don't yet have established careers, don't know what city they want to live in, aren't in established relationships yet, want access to better school districts, want more space than an apartment with a garage and a yard, etc.

Yes, some will debate 'affordable', but really, having sole/exclusive use and possession of a property worth \$300K-\$500K with no risk, no huge downpayment, no being anchored to the area/property, no maintenance costs, for in most cases less than \$25K a year, seems quite reasonable. If anything it makes landlords look like they're getting ripped off.

For comparison, here is the best argument leaning toward immorality:

I think the system we have for housing is immoral.

I don't find people acting in that system being immoral. If you can use the law to ruin someone life, I believe the law is more at fault than individuals.

The biggest problem we have at the moment is foreigners buying up homes in order to make back the money by having them renting units.

An answer to fixing housing would be to make owning a home a right and to punish people hoarding property. Have a progressive taxing system based on property own and maybe prevent banks from owning property and move that reasonability to the city.

If stopping homelessness is a concern, the system we have now would need to change.



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DATE	TOPIC
Wednesday, February 7, Noon	Legalizing Non-Confirming Units
Wednesday, February 7:30 pm	Meet & Greet: Alameda County Supervisor Candidate
Thursday, February 29, 3:00 pm	Making the Most of Resident Application & Screening Tools

*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.*

UC Berkeley Walls-Off People's Park

University officials said in a statement that several streets surrounding the park would be closed to traffic for the next three to four days while crews continue building a perimeter comprised of double-stacked shipping containers.

On Tuesday, Berkeley Council Member Kate Harrison released an open letter to university administrators urging them to follow the city's ban on tear gas when dealing with potential protesters. Harrison wrote that while she supports the university's housing project, "it would not be worth the human cost to engage in a brutal, heavy handed police action to make it a reality."

The university's last major hurdle is the state Supreme Court case, which will decide whether the university can build housing at People's Park. Mogulof said in a statement on Tuesday that the university will not move forward with construction until the legal issues are resolved. Gov. Gavin Newsom's office has filed a brief to the court in support of the university's plan. A hearing has not yet been scheduled.

Berkeley city leaders have also expressed support for the project. On Thursday, Berkeley Mayor Jesse Arreguín, who is running for state senate, said in a statement released by the university that the city is proud to support a project that "will honor the legacy of People's Park and better meet the needs of our community through an effort that's deeply reflective of the city's and university's values."

"Our partnership will put a roof over the heads of those living in People's Park, instead of simply pushing them from one neighborhood to another," he said.

In September, Newsom signed a state bill into law that amends California's environmental law so that developers of housing projects no longer need to study the noise generated from future residents. The passage of AB1307, introduced by Assembly Member Buffy Wicks, D-Oakland, whose district includes Berkeley, was a major win for the university.

Opponents of the project at People's Park have said the university should consider other sites for housing and instead take care of the park as a historic landmark.

Harvey Smith, the president of the People's Park Historic District Advocacy Group, which is against the project, released a letter Tuesday from the National Trust for Historic Preservation, a Washington-based nonprofit, calling for the preservation of the park.

"People's Park is listed on the National Register of Historic Places as nationally significant for its association with student protests and countercultural activities during the 1960s," the letter stated.

In 1969, the site became a battlefield after UC Berkeley demolished housing to make room for new dormitories. Activists fought the plan and a county sheriff's deputy fatally shot a man. Then-Gov. Ronald Reagan brought in the military to occupy the park, but the activists prevailed.

Since then, the park has been a haven for homeless people. But over the last year, the city and the university partnered on a \$1 million agreement to lease the Quality Inn motel for homeless housing. So far, 21 of 25 unhoused people have moved from the park to the site, Mogulof said.

COMING ATTRACTIONS

Legalizing Non-Confirming Units

Wednesday, February 7, Noon

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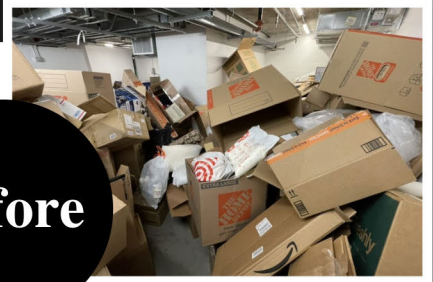
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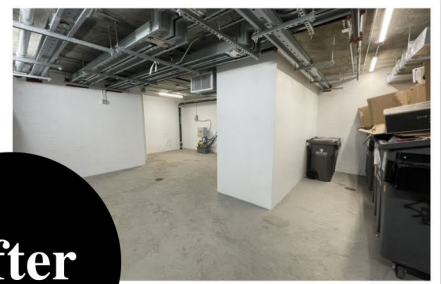
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communities and to promote social harmony. The Chinese, 74% of the citizenry, cannot be more than 84% in any housing entity. Malays and Indians are each about an eighth of the population and are each limited to 22% occupancy.

There is something different about these two cities that facilitates the successful development and administration of social housing. In other countries where authoritarian controls are applied to housing, there is nothing like the positive results seen in these two cities. Compare the numbing rows of utilitarian Soviet housing to the thoughtful housing projects in Vienna. Appreciate the ancillary services and facilities that are routinely part of every housing project in Singapore. Government control is heavy-handed, but it tries very hard to be benign. Neither city has a reputation for corruption, almost a given in other tightly controlled economies.

In both Singapore and Vienna, housing is accepted as a government function. It is akin to our view of education. The government provides housing as needed but residents are free to opt for the limited private market. This is analogous to Americans sending their kids to private schools.

Is social housing a good idea?

Vienna and Singapore show it is possible. At a minimum, it requires sufficient resources. Note that the needed resources are only there because there is a thriving market economy producing not only private, but public wealth as well. Scandinavia could do this. Neither Haiti nor Afghanistan is about to adequately house its population.

Also, there has to be community acceptance of the concept. With centralized authority over housing, residents have to be willing to cede some level of choice and mobility to a perceived greater good.

QUOTE OF THE MONTH

*"After age 70,
all questions should be
multiple choice."*

— ed.

Next, it requires a political structure that is actually capable of producing goods and services. After 60+ years of Castro-style socialism, physical Cuba continues to just fall apart. With huge oil resources, Venezuela under Chavez/Madura has only managed to run its economy into the ground, forcing millions to flee the country. Imagine a life so desperate that you are willing to walk from Caracas to El Paso just for an opportunity to feed your family.

Then there is management. As rental housing providers, you understand how difficult it is to keep rental housing viable over time. Lacking the constraints of a bottom line and any negative consequences for failure, government is usually not good at management. The Bay Guardian was a left-leaning weekly in San Francisco for many years. It annually identified the worst landlords in the City. Topping the list year after year was the San Francisco Housing Authority. The Feds ultimately took over San Francisco's public housing program.

So...is social housing a good idea for the United States? As the primary means of housing people, almost certainly not. By temperament and tradition, we are geared to a private housing market. The very core of our economic system is the private provision of goods and services. Government intrusion in the market place is limited to rectifying perceived market failures. We do not collectively feed or house people but do offer food stamps and housing vouchers to those whose needs are not met by the market.

Nevertheless, you would think there is a niche market for collective housing which is promoted, secured and managed by non-profit entities. Yet, after more than a century of active socialism in the United States, it is surprising how few such housing ventures there are. In progressive Berkeley, I know of three housing co-ops. Over 30 years ago, Berkeley had a small program to encourage limited-equity co-ops. I offered a 24-unit building to the tenants for \$24,000 a unit. This evoked minimum interest from less than a handful of the residents.

Co-operative housing is good idea because the residents can eventually enjoy the benefits of long-term ownership, just like long-term homeowners. Even without subsidies — cheap/free land, low interest rates, tax breaks, etc. — the property is eventually paid off and there is no mortgage cost. For those so inclined, Co-ops make sense and yet they are rare in the United States. Why is that?



Ron Heckmann, a spokesman for Veritas, said that many of its buildings are more than a century old and that the company has worked hard to address the concerns of tenants, spending millions of dollars on improvements. The elevators are so outdated that replacement parts must be custom-made, he said. The plumbing, wiring and heating systems are aging and complex.

Mr. Heckmann added that just a fraction of the tenants in the company's thousands of units around the city have joined the strike. He dismissed the strikes as ideological grandstanding driven by Brad Hirn, a tenant advocate with the nonprofit Housing Rights Committee of San Francisco, who has organized the tenant associations and led the fights.

Mr. Hirn, though, said that the buildings have real problems that include cockroaches, vermin, mold, and broken mailboxes and elevators. Mr. Heckmann said that whenever problems like these are raised by tenants, the company works hard to quickly address them. Mr. Hirn said tenants will call off the strikes when the company gives rent reductions for code violations, improves health and safety protocols and translates materials into other languages. .

"With enough support, they can win things they never thought were possible," he said.



The National Multi-Housing Council recently released the report, "Rent Regulation Policy in the United States: An Update with Assessment."

Its introduction states, "Rent regulation regimes, sometimes known as rent control, interfere with the rental housing market — indeed, that is their very purpose. This regulation leads to negative impacts on rental housing, such as declining housing supply and increased cost of rent, especially for those whom the policy intends to serve. Despite a largely conclusive body of research illustrating negative outcomes for renters, rent regulation is increasingly being proposed by politicians to their constituents as a solution to housing affordability challenges when, in fact, it exacerbates the problem.

A previous literature review by Dr. Lisa Sturtevant in 2018 found several main impacts of rent control:

- Reduces the available supply of rental housing in a community;
- Raises rents in uncontrolled communities within the same larger market area;
- Forces residents into units that do not meet their needs, perhaps depriving other residents of units they need;
- Significant cost of rent control programs to states and localities; and
- Deterioration or lack of investment in rent-controlled buildings.

You can read the report in depth on BPOA's website at www.bpoa.org/laws-and-ordinances.



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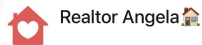
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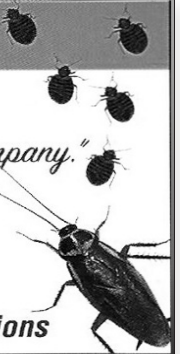
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