

APR
2024



The Advocate for Berkeley's Rental Housing Providers

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The Importance of Creating Good Tenant Relations

Dan Lieberman, President, BPOA

In just about every business, keeping the customer happy is perhaps rule #1. Because, with most businesses, if the customer does not feel they are getting a good value or that their needs are being met, they will just go somewhere else.

For some reason, many rental housing providers seem to have either forgotten, or never learned, this message. I'm not sure why. Perhaps it is because the rental market has been historically tight due to under-building, giving residents few options to move. Perhaps it is because the rental housing provider was told their rental property was an 'investment' and not a business. Or perhaps they read some 'get rich in real estate' book, which had no emphasis on how to attract and retain the best residents.

Whatever the reason, treating your residents as good customers is not just good for your tenants, it is good for you. This means being responsive to maintenance requests, clearly explaining owner and resident responsibilities per your lease up front, and perhaps most important, keeping the government and legal system from getting between you and your tenant.

You want your tenants calling you

You need to adapt the mindset of wanting your tenants to call you when they have a problem. You want to have a chance to assess the problem, and if needed, to make things right. You don't want them first calling tenant attorneys when they have a problem. You don't want them first calling the rent board when they have a problem. You don't want them calling code compliance first when an issue arises. You want your tenants calling you with their problem!

If you want them to call you first, you need to be responsive when issues arise. You need to investigate complaints, even if you feel they may be frivolous. I believe establishing a good business relationship with your tenants from the inception of the tenancy is so important in getting them to call you first. And despite what you might think, most tenants want to work with their landlord.

Think back to the Covid period, when governments were telling tenants not to pay their rent. Yet despite this, most tenants did pay their rent and did not listen to these politicians.

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COMING ATTRACTIONS

Election Kickoff: Strategy & Social Mixer

Wednesday, April 17, 5:30-7:00 pm

Don't Run Afoul of Fair Housing Laws

Thursday, April 25, 3:00 pm

New Member Open House

Wednesday, May 1, 5:00-7:00 pm

Mid-Morning Nosh, Network & Education

Saturday, May 18, 10:00 am

See pages 13 & 14 for details & more events!

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Editorial

What is a Lipogram?

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

Think about how difficult it is to author a book without using our most common writing symbol, that which follows D and is in front of F. In 1939, all publishing firms said no to such a book and would not publish it. And so its author, a guy known as Wright, put out his own book without backing from anybody in publishing. This book is known as GADSBY and was fifty thousand words long. (It is still sold on Amazon should you wish to buy it.) At fifty thousand words, this book was not a minimal task, but is a full-blown work of fiction.

A composition avoiding a part of our ABCs is known as a *lipogram*. Writing such is silly but you can do it for fun; or possibly it is just a task to try to focus an uncommonly wayward mind.

And so... on a whim, a lipogram in this spot is my job for this month of April.

This particular composition has nothing to say about all that housing which you folks own but do not actually occupy. Back to that in May. This composition is about writing, particularly writing a lipogram. I am trying to pull off an unusual skill which contrasts with my normal quotidian activity. Many moons ago in this spot, I took a month off from discussing housing by writing about my complaints about hoops, particularly how NBA scoring works.

So... why not a month off for a fling at writing a lipogram? My goal is to construct this lipogram with about half a thousand words, all of which must lack that taboo symbol twixt D and F.

That this task is difficult is obvious. It disallows many thousands of common words which you usually apply daily. How do you do digits if only two, four and six comply? Half your vocabulary is just not okay. This is hard — and frustrating — to do. Virtually any string of words has many of that particular symbol which you wish to avoid. Also, if it is to work, your composition must scan with a quasi-normal rhythm. It should flow so that it is not obvious that this is wordplay applying an unusual construction of words. It should just flow naturally without glaring convolution.

On occasion, it is fun to try an activity that is not what you usually do. I am too old to try mountain climbing, so fabricating a lipogram struck my fancy as a good thing to try. If author Wright could do fifty thousand words, a fraction of that is a cinch, right? Actually, it is a taxing task. Nary a string of words works at first. Modification is continuous. But you just plug along, trying again and again, to find ways to work around using that singular taboo symbol.

No, that won't work. How about...? No, that too fails to comply. How about...?

Okay, that's a good try for now. Not too shabby, I'd say. Anyway, it was fun. If you want to blow an hour or two, try writing a lipogram. In May, it's back to griping about public policy on housing.

❖ 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.**

BRHC Files Ballot Initiative in Berkeley

The time has come...the Berkeley Rental Housing Coalition (the political and legal arm of the BPOA) has filed to collect signatures for a ballot measure to protect single family home and owner-occupied duplex rentals. We intend to submit this ballot for voter approval in November. Titled the "Rent Relief Fund & Homeowners Protect Act", the initiative aims to provide a permanent, city-wide fund for those who have instances in which they cannot pay rent. It also establishes exemptions from the Rent Stabilization Ordinance for all duplexes in which an owner lives in one of the units as well as "Measure MM" single family home rentals.

While housing advocates had filed their own measure two weeks prior to ours, our initiative was not *just* a direct response to theirs. The BRHC regularly evaluates public policy measures that help support rental housing providers in Berkeley. However, we have been unable to confidently rely on our elected officials to deliver equitable rental housing public policy and so we took the initiative to appropriately address this inequity.

Since the start of the pandemic and the ensuing eviction moratorium, a good handful of BPOA's members have been irrevocably harmed by nonpayment of rent scenarios. The most effective rent relief fund was the one that was set up and funded by the city because the funds were immediately accessible. When the state and county got involved and offered funds, the money took forever to come through or in some cases, never came through at all.

What better way to help solve this issue than to have an established Rent Relief Fund that any owner or tenant could tap into if their tenant qualifies? It would draw funds from an existing tax paid for by owners of five or more rental units (called Measure U1). This means there would be no new taxes implemented and there would be approximately \$1.3m worth of funding annually.

The proposed ordinance changes will also include an owner's responsibility to notify the tenant of their option to renew 60 days prior to the expiration of a lease term; the ability to add new health and safety laws to an existing lease (such as the 2015 Anti-Smoking Ordinance); and to raise the rent above the rent ceiling where both tenant

and landlord agree because of improvements made to the unit.

Our organization must collect 2,895 signatures of registered Berkeley voters. While this is a hefty feat, we remain determined that enough voters will care to see this put on the ballot and that they will sign our petition. You may be asking yourself; how can I help this effort? You too can collect signatures! Contact the BPOA office for instructions on how to do so or go to our homepage and click on "Renter Relief Fund".

This initiative is brought to you by the Berkeley Rental Housing Coalition. This enhanced membership assures us that we can fund these important political efforts that protect one of your most important assets. To learn more about upgrading your membership from BPOA to BRHC membership, contact Krista Gulbransen, krista@bpoa.org.

Larkspur Passes Rent Control Measure D

The Marin city of Larkspur passed a rent control ordinance with 1,066 voting for the measure and 1,051 voting against. A switch of eight voters in favor of the new law would have resulted in defeat of the measure.

The ordinance caps rent increases at 5% plus inflation or 7%, whichever is lower. It was intended to take effect on Oct. 6, but it was postponed during the referendum process. The ordinance would have been retroactive to the base rent as of May 8.

The rent-control ordinance complements a just-cause-for-eviction ordinance, which also is retroactive to May 8. It expires on 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.

Proposed Bill Would Prevent California Landlords from Banning Pets in Rentals

Kate Talerico, Bay Area News Group, February 29, 2024

In California's tight rental market, apartment hunting is a daunting task. For pet owners, the options are even fewer.

But a bill proposed in the California State Assembly this year could make it easier for those with furry friends to find a place to rent.

The bill, AB 2216, would prohibit blanket bans of pets in rentals and allow landlords to ask about pet ownership only after a tenant's application has been approved.

"Like it or not, humans have pets, they always have and they always will," Assemblymember Matt Haney, a San Francisco Democrat who proposed the bill, said in a statement. "Blanket 'no companion pet policies' are causing landlords to miss out on good tenants who get rejected without even getting a chance to apply for a place to live. The current system is bad for everyone."

About 57% of households in California own a pet, according to a 2019 survey by the American Veterinary Medical Association. Thousands more adopted pets during COVID. Yet in San Francisco, Oakland and San Jose, just one in five apartments currently on the market allows for large dogs, while about two in five allow for small dogs and cats, according to a review by this news organization of Zillow listings.

In Oakland, Nina Foo, 30, has been searching for six months for a one-bedroom apartment in the Rockridge neighborhood that will accept her mini goldendoodle, Poppy.

As many reasons as there are to love pets, property owners have plenty of their own for banning them in their buildings. Barking dogs can be a nuisance to neighbors. Unclipped claws can damage wooden floors. Too many cats can leave lingering odors. Owners who don't pick up after their pets' messes create extra work for maintenance staff. Lingering pet dander in carpets can make a unit uninhabitable in the future for someone with severe allergies.

"When you try to mandate sweeping legislation for inclusion of pets in a community, you have to think of the whole of the community — and that includes other renters," said Derek Barnes, executive director of the East Bay Rental Housing Association, which opposes the bill.

The full text of the bill is still in the works, and its chances of becoming law are unclear — but Haney has said land-

lords would be exempted from the ban if they provide a reason for excluding pets from their property, such as concerns over health or nuisances, so long as they can provide documentation to a rent board if a tenant pushes back.

Krista Gulbransen, executive director of the Berkeley Property Owners Association, said the ability to ban pets, or certain types of breeds, helps landlords to mitigate their risk — whether that's damage to the unit or potential issues with neighbors.

Kate Witzke the Shelter Behavior and Training manager works with Lola, a one-year-old female dog in the play yard of the East Bay SPCA on Wednesday, Feb. 28, 2024, in Oakland, Calif. Lola was surrendered to the shelter when the dog's owner moved.

"While there are plenty of pets that are fine and don't do damage, there are a few that aren't that way," she said. An animal-lover herself, Gulbransen allows pets in most of the units she manages — but it's a decision that has come back to bite her on occasion, such as when she had to rip out new carpeting after a tenant's cat seemed to pee "everywhere but the litter box."

Plus, California law already requires landlords to accept emotional support and service animals without charging an extra fee, she said.

Owners of "companion animals" don't have the same protection, though, and restrictions on pets can push them out of their homes.

That was the case for Tran Nguyen, a 26-year-old software engineer who decided to adopt a cat in 2020. A few months after she and her boyfriend brought Jules, a grey and white Ragdoll kitten, into their Menlo Park apartment, Tran took another look at her lease and spotted a clause that forbade pets. Worried that Jules' loud meowing might tip off their property manager, Tran and her boyfriend decided to break their lease and move so they could keep Jules.

"There was a big fine if we did violate our lease, so we didn't want to deal with that," Nguyen said. They ended up finding an apartment building in San Mateo that allowed cats but charged an additional \$60 per month in pet rent.

"When you try to mandate sweeping legislation for inclusion of pets in a community, you have to think of the whole of the community — and that includes other renters."

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New Rent Stabilization and Eviction Policies Are Coming to Concord

Katie Lauer, Bay Area News Group, March 1, 2024

A new study from Northwestern University found that landlords were incentivized by rising rents to replace existing tenants with new market-rate-paying tenants

Concord lawmakers this month agreed to increase “just cause” eviction protections to most of the city’s tenants and establish rent stabilization for roughly half of its rental stock — a culmination of months of hours-long meetings to complete an effort that’s been in the works since 2016.

A majority of the Concord City Council and regional housing advocates praised the additions to the city’s tenant protections ordinance, citing stats that show renters occupy approximately 40% of all housing units in the city, and nearly half of those residents shell out more than 30% of their income on housing costs.

While these policies are still relatively rare — of the 538 cities and counties in California, only 26 have enacted rent stabilization policies, while 43 include just cause for eviction policies beyond state law — Concord is now aligned with similar local efforts in Berkeley, Oakland and Richmond.

Councilmember Laura Nakamura said she hopes the new ordinance will help create a sustainable housing market and prevent residents from being displaced or falling into homelessness. While she vowed to revisit the issue if problems arise for local property owners, she noted that 78% of all rental homes are owned by investors from outside of Concord.

“I am very excited to see that this will stabilize our community, our neighbors, and that people will hopefully feel secure in their homes,” Nakamura said during the Feb. 13 council meeting. “Tenants in Concord have not had a lot of choices, and I think tonight that this really centers the voices of the people who really have needed our help.”

The rules dictating what landlords can and cannot do — as well as how renters can respond — are complex and are not applied in the same way across all homes.

Notably, exemptions from rent stabilization were carved out for several types of rentals, including single family homes, some condos and select affordable housing units

where annual rent caps are already contracted at 5% or tenants earn salaries higher than low-income ceilings. Landlords of each of these properties must still follow the rules of “just cause” evictions.

However, Concord residents who live in accessory dwelling units, government-owned housing or on the other side of an owner-occupied duplex, among others, do not have any protections for rent stabilization and just cause evictions.

These newly drafted laws will take effect April 4, 2024, unless a majority of the council chooses to reject them in a final vote, which seems unlikely. The Concord City Council approved the final laundry list of changes in a 4-1 vote. Councilmember Laura Hoffmeister was the lone “no” vote.

For multi-family rental units that were built before February 1, 1995, as well as rented out mobile homes, the new ordinance caps rent increases at 3% or 60% of the Consumer Price Index, whichever is lower. For a median-priced apartment in Concord at \$2,449, a renter would face a rent increase of no more than \$73, for example.

When current tenants in Concord are permanently relocated out of a home in a “no fault” eviction — such as an owner moving into that space, taking the entire property off the rental market or constructing substantial rehabilitations

— the ordinance requires that landlords pay relocation payments and moving stipends.

For single family homes and condos, that rate is two months of the rent rates dating back to April 2023, as well as an additional \$2,000. All other dwellings are beholden to relocation payments that are three times federal fair-market rates for each type of home, on top of a \$3,000 lump sum to cover moving costs. Renters who are low-income, disabled, seniors or have other qualifications can receive additional funding to ease the transition.

Councilmember Laura Hoffmeister and Vice Mayor Carlyn Obringer vocalized concerns that not all property own-

Notably, exemptions from rent stabilization were carved out for several types of rentals, including single family homes, some condos and select affordable housing units where annual rent caps are already contracted at 5% or tenants earn salaries higher than low-income ceilings.

Mitigating the Risk of Pets

Daniel Bornstein, Bornstein Law

Our own Assemblymember, Matt Haney out of San Francisco, is a busy fellow. After successfully pushing through a bill that he authored that limits security deposits to one month's rent, he is now the architect of AB 2216.

The bill would bar property owners from asking about pets on applications, prohibit additional monthly fees for pet owners — dubbed “pet rent” — and limit pet security deposits.

To Haney, there is a fundamental unfairness in a “two-tiered system that punishes people for having pets or treats them differently.”

After reviewing Zillow numbers, the lawmaker's staff discovered that 20% of apartments in San Francisco allowed cats and dogs of all sizes, while two in three households own pets nationwide.

Tenant advocates and the Humane Society of the United States were quick to applaud the bill's announcement. That organization says overcrowding in pet shelters is caused when pets have no home to go to because of blanket bans.

For years now, we have repeatedly said that rental property owners and their agents have been blinded to risks. A prior history of evictions, for example, may be cloaked. Criminal activity in certain locales may be off-limits. Effective in 2024, landlords cannot inquire about the credit standing of prospective tenants with a housing voucher in hand.

We can go on, but the quintessential point: landlords and property managers have increasingly lost discretion in choosing who they rent to and assessing the potential consequences, like damages that can quickly rack up to thousands of dollars.

An evolution in pet legislation

The tenant's right to have a bona fide “service animal” has been sacrosanct and never put into question. These dogs are trained to perform a specific task to assist their disabled owner. We are all aware of dogs helping the visually impaired, but in fact, service animals can perform a variety of other tasks such as fetching dropped items, pulling a wheelchair, or alerting the owner to an impending seizure. Yet there are animals in another category, and they need not be a dog or have any training to assist their owner, and this is where it got murky.

It was well-documented that many tenants falsely claimed the need for emotional support, or “comfort” animal. It was the butt of jokes when those animals were peacocks, pigs, or alligators.

Taking to the Internet and paying a negligible fee, tenants could purchase documentation that certified the need

for a comfort animal with few questions asked by these certificate, tag, and merchandise mills. By questioning the veracity of these official-looking but bogus documents, landlords invited costly discrimination lawsuits.

Many housing providers, then, celebrated the 2022 passage of AB 468, new legislation that reined in these fraudulent practices.

To assert the need for a comfort animal, a tenant must provide supporting documentation. If it is provided by a medical professional, certain requirements must be included in the letter.

Now, we enter another era of rules relating to pets in rental units

Assemblymember Haney has promised to work with all stakeholders to craft the final version of the legislation in recent weeks and has invited housing providers to take part in this dialogue. He points out that the final product will likely limit the number of pets allowed and require pet liability insurance.

Some takeaways and parting thoughts

The author of the bill says exceptions would be carved out for landlords with a “reasonable rationale” for excluding pets. These include health and nuisance-related allowance, provided that owners can produce documentation to a judge or rent board if a tenant contests the policy.

To which we say, of course. This is an exercise in stating the obvious. Owners of pets must ensure that their pets do not create a nuisance for neighboring residents. Yet anytime there are new procedural requirements or opportunities for landlords and tenants to air out grievances, it ratchets up the cost for owners, as we noted in an earlier article on Alameda County's march towards mandatory mediation when there are habitability issues.

It's hard to argue against bringing housing providers together to come up with an amicable resolution, but it can be costly, especially when tenants are entitled to free legal representation when landlords are not.

We also echo the sentiment of our friends at the Berkeley Property Owners Association. It's been said that with a deluge of new regulations, property owners are trepid to rent out vacant units. Indeed, we have lost several clients and followers because they left California to put their real estate dollars elsewhere.

At Bornstein Law, we love animals. We also love rental property owners and their rights. Hopefully, lawmakers and the rental housing community can reconcile these two romances.

Another Stab at Constitutionality of Rent Control

On March 19, 2024, a petition filed with the U.S. Supreme Court was assigned the docket number 23-935. This property rights case raises a Fifth Amendment Takings Clause challenge to Washington's COVID-eviction ban that attacks a persistent misinterpretation of the Supreme Court's determination in *Yee v. Escondido*, 503 U.S. 519 (1992). Many courts across a broad spectrum of circumstances have misappropriated Yee's discussion of "voluntary leasing" as a reason to rule that once an owner cracks open the door for some, the government has license to open the door widely for most all. In other words, if a rental property owner grants a limited, conditional right of possession to a third-party, the government can then compel a subsequent physical occupation that is distinct from, greater than, and longer than, what the owner consented to, without paying just compensation. Beyond COVID eviction bans, this misinterpretation of Yee has been the driving force for the denial of physical takings claims in the context of mandatory lease renewals, other forms of lifetime leases, physical annexations to real property, mandatory boarding in a health care setting, and the government authorized invasion of software.

Here Petitioners Gene and Susan Gonzales, and Horwath Family Two, LLC, own residential rental properties in

Centralia, Washington. In March 2020, Washington enacted an eviction moratorium that was intended to ensure that renters could shelter in place to slow the spread of COVID. The property owners were banned from evicting anyone absent three limited exceptions: (1) if the tenant posed an immediate threat to the health or safety of others; (2) if the owner intended to personally occupy the unit as a primary residence; or (3) if the owner intended to sell the property. Conversely, the tenants were authorized by the State to continue in hostile possession and exclude the property owner, regardless of whether they paid rent, had a lease, or complied with the lease.

The Petitioners argued that their inability to exclude non-lease holding occupants worked a physical taking. The Supreme Court of Washington upheld the eviction moratorium on the grounds that the landlord's decision to rent its residential units absolves the government of any subsequent physical takings claim. The Washington court's decision is irreconcilable with Supreme Court precedent regarding physical takings. And it is in direct conflict with a decision from the Eighth Circuit Court of Appeals in *Heights Apartments LLC v. Walz*. The Supreme Court has requested a response to the cert petition.



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Tiffany Van Buren, BPOA Deputy Director

Spring Into Action: Essential Building Maintenance Tips for the Season Ahead

The daylight hours are longer, the weather is getting warmer, and we've seen a surge of students arriving in the city searching for rental housing — that's how you know it's spring in Berkeley!

While we might anticipate April showers and May flowers, spring also brings opportunities to address maintenance tasks deferred during the wet winter months on those rain-free days. Though the temptation to spend time outdoors in the sunshine is strong, ensuring our rental properties are well-maintained is crucial. As the weather improves, now is the time to tackle those deferred maintenance tasks! Here is a list of recommended spring maintenance tasks and a few additional suggestions for those who are in the market for new tenants:

- **Inspect the roof and gutters.** Check for visible wear and tear, damaged seals, and pooling water. Look for debris, such as fallen tree branches and limbs. Ensure the gutters are firmly attached. Neglect could lead to structural issues, water intrusion, and other costly damages.
- **Clean gutters and downspouts.** Remove all debris from the gutters and run a hose down the downspouts to ensure they are clear. Clogged gutters can cause foundation issues, structural damage, mold, and mildew and create a breeding ground for mosquitos.
- **Inspect the exterior of the building, including windows and doors.** Check for cracks and evidence of water damage. Check that the doors and windows are adequately sealed. Seal all cracks and gaps.
- **Inspect exterior faucets, hose bibs, and hoses.** Leaky faucets can cause water to pool at the foundation, which is bad news and contributes to water waste.
- **Clean the exterior.** Using a pressure washer, hose, or broom to remove grime and cobwebs from the building makes a big difference. Be careful with a pressure washer; high pressure can cause damage!
- **Inspect fire extinguishers.** Ensure the extinguishers have been serviced in the past year and the cabinets are in good condition. Uline sells plastic outdoor fire extinguisher cabinets that do not fade, rust, dent, or corrode for ~\$50.
- **Inspect exterior lighting.** Check for missing or broken bulbs and damaged motion sensors and adjust motion sensitivity and LUX settings as needed. A well-lit exterior is crucial to the safety of your residents!

- **Inspect the waste carts/bins.** Check for cracked or missing lids and dysfunctional wheels. Give them a thorough cleaning. If rodents access your dumpster through the drain holes, line the bottom with ¼" galvanized steel wire sheeting.
- **Trim hedges and trees.** Ensure your grounds appear well-maintained by attending to hedges and trees with good trimming and clean-up but save the hard pruning for later in the fall. The goal is healthy flora and a kept appearance.
- **Edge and mulch landscaping beds.** Applying a fresh layer of mulch gives beds a fresh, clean look. Set out some blooming plants and seed your summer annuals (cosmos, petunia, marigold) or summer bulbs (callas, cannas, dahlias, gladiolas). Walking up to a property with beautiful flowers in bloom has never left a bad impression.
- **Evaluate door appeal.** Before showing vacant units, start where your prospective tenant will start — at the front door! Assess the front door's condition, considering whether it needs a fresh coat of paint. Ensure the unit number is visible. Check for a doormat to prevent dirt from being tracked indoors. Inspect the condition of the doorknob for functionality and aesthetics. Test the locks to ensure they operate smoothly and securely.

As springtime in Berkeley emerges, we must remember the importance of maintaining our rental properties. By taking proactive steps to address maintenance tasks now, we not only enhance the appeal and value of our properties but also ensure the comfort and safety of our residents. So, whether it's inspecting the roof, sprucing up the exterior, or enhancing the door appeal, let's seize the opportunity this season provides to protect our investments and create inviting spaces for our current and future tenants to call home. As the days grow longer and warmer, let's spring into action and make the most out of this season of renewal. Here's to a successful and rewarding spring ahead!

QUOTE OF THE MONTH

"Good judgment comes from experience; experience comes from bad judgment."

— Will Rogers

Help Student Residents Have a Sustainable Move Out, Avoid Fines!

It's almost that time of year again! Avoid fines up to \$1000 for illegal dumping during Cal Move Out at the end of the spring semester. Property owners and managers have an important role in ensuring that public health and safety are protected as students move out at the end of the academic year. Any objects that are dumped on the curb are a violation of City policy and a public safety hazard.

Tips to avoid fines: Plan ahead: Call the City (510) 981-7270 to:

- Order extra curbside pick up or short-term dumpsters
- Schedule free bulky waste pick up (1-4 unit properties)
- Schedule free curbside mattress pick up (1-9 unit properties)
- Purchase prepaid trash or plant debris bags (berkeleyca.gov/city-services/trash-recycling/pre-paid-bags-bulky-waste-and-mattress-recycling) at the Customer Service Center (berkeleyca.gov/your-government/about-us/city-offices-service-locations/finance-customer-service-center), Transfer Station (berkeleyca.gov/city-services/trash-recycling/transfer-station) or Ace Hardware at 2020 Milvia St.
- Visit the City's Zero Waste webpage (berkeleyca.gov/city-services/trash-recycling) for additional information on the City's waste and recycling services (mattresses, short-term dumpsters, bulky item collection, etc.)

Tips for recycling and reusing: Inform tenants how to reduce waste

- Sort your waste: Use your curbside bins for recycling and compost
- Recycle most electronic devices for free with ewasteCollective.org
- Tell student tenants to visit CalMoveOut.com — a website designed by students, for students — to learn about how to donate (or claim) reusable furniture and household items and have a sustainable Move Out (from May 17 — 28)
- Check the RE:Source Guide at www.StopWaste.org for local reuse, repair, recycle & safe disposal options for everything from batteries & bicycles to clothes & furniture
- **Spread the following message** to all tenants!

Please share the following information with your tenants who are moving out:

- **Safety First! Do NOT dump unwanted items or furniture on the curb.** Materials left on the curb pose a risk to the homeless population, sanitation workers, people using the sidewalk, and elderly or vulnerable neighbors. It is illegal to leave materials on the curb and can result in imprisonment or hefty fines.
- **Plan ahead.** Make a plan for what you will do with your furniture and unwanted items before your lease expires.
- Take advantage of **Cooperative Reuse**, a student-led initiative to give reusable household items a new home. Reusable furniture and mattresses collected and made available, **May 17-28** at the SW parking lot of Clark Kerr. Clothing and small household items are also collected by Goodwill. **Visit CalMoveOut.com for more information.**
- **Donation resources.** Check out RE:Source Guide at www.StopWaste.org for a list of places that accept donations. Unopened food can be donated at BerkeleyFoodNetwork.org, the UC Berkeley Basic Needs Center (www.basicneeds.berkeley.edu), and during Cooperative Reuse program dates.
- **Dispose of waste properly.** See the Ecology Center's sorting guide (www.resourcefulapp.com/berkeley#sorting) and tips for keeping curbside recycling safe. Drop off up to 2 mattresses and 2 electronics per visit at the Berkeley Transfer Station for free. To drop off additional electronic waste, check out the ewasteCollective (ewasteCollective.org/electronics-recycling) or drop off mattresses and electronic waste during Cooperative Reuse program dates.
- **Visit CalMoveOut.com** — a website designed by students, for students — for more tips and resources about a sustainable Move Out.

Look out for more resources from the BPOA in your inbox this May.

Biden Seeks a Fix for Housing Crisis

Shira Stein, San Francisco Chronicle, March 8, 2024

President Joe Biden had a difficult needle to thread in his State of the Union speech Thursday night ahead of his expected rematch with former President Donald Trump: Tout the strength of the economy under his administration while acknowledging the frustration many Americans feel about the cost of living.

Biden detailed other proposals designed to ease Americans' financial burdens — lowering the cost of prescription drugs, reducing junk fees and promoting competition in health care and other industries — but the housing discussion reflects a growing push in Washington to explore ways the federal government can make it easier for people to buy homes or remain in their existing ones.

"For millions of renters, we're cracking down on big landlords who break antitrust laws by price-fixing and driving up rents," Biden said in his speech. "I've cut red tape so more builders can get federal financing, which is already helping build a record 1.7 million housing units nationwide. Now pass my plan to build and renovate 2 million affordable homes and bring those rents down!"

San Francisco's state-mandated housing plan calls for 82,000 new units by 2032, a goal Mayor London Breed has acknowledged the city is unlikely to meet. Typical home values in the San Francisco metropolitan area have been rising since the first quarter of 2023, after multiple mortgage rate hikes cooled the market. Interest rates on a 30-year fixed mortgage have dropped below 7%, according to Freddie Mac, down from a two-decade high of 7.8% in October 2023.

Housing values across the country are also increasing, with the national median price for a single-family home up 3.5% from a year ago, according to the National Association of Realtors.

Though mortgage rates remain far above their pre-hike lows, many Bay Area real estate agents believe their recent drop is enough to bring buyers back to the housing market. That could cause home values to rise further as buyers compete for limited housing stock.

Biden called for Congress to create three new tax credits to help homebuyers: \$5,000 a year for two years for middle-class first-time homebuyers, up to a \$10,000 one-time tax credit for middle-class families who sell their starter

homes to another owner-occupant, and a tax credit to build or renovate affordable homes for homeownership.

The House recently passed a package of tax legislation that included a targeted expansion of the low-income housing tax credit — which Biden asked Congress to expand — that developers can take in exchange for reserving some rent-restricted units for lower-income households.

"The federal government has a real role to play in making sure that we're building more housing and making sure

that we're getting relief to people who are struggling in this current housing market," Daniel Hornung, deputy director of the National Economic Council, told the Chronicle ahead of the speech.

Biden also called for Congress to create a federal program to assist low-income families with down payments, a program that California has already created. Federal lawmakers attempted to create a \$10 billion down-payment program in 2021, but the plan failed.

The proposal became so politicized that

it's unlikely Republicans would be willing to support such a program now.

Biden's budget proposal, which he will release Monday, will include his bid for a \$20 billion grant program to increase housing production. Biden also called on Congress to increase the amount that federal home loan banks must contribute to the program that provides private sector grants for housing and community development.

The Consumer Financial Protection Bureau will propose new regulations to address closing costs that "benefit the lender but not the borrower" and can cut into homebuyers' down payments.

Closing costs have "really shot up, and it drains people's down payment and pushes up their monthly mortgage payment," bureau Director Rohit Chopra told reporters Tuesday.

None of the proposals will be game-changers for the large-scale supply and demand issues, but they could have a real impact on certain areas of the market where there are genuine pain points, Jenny Schuetz, a senior fellow focused on housing at the research institute Brookings Metro, told the Chronicle.

continued on page 12

California Rental Housing Association Public Policy Update

California Rental Housing Association

Political Update

- The Governor's Legislative Secretary, Christy Buoma, is leaving and has been replaced by Christine Aurre, who has served as Newsom's Deputy Legislative Affairs Secretary since 2022. Prior to that, was Legislative Director in the Office of State Senate Majority Leader Robert Hertzberg from 2019 to 2022. Aurre was Legislative Assistant in the Office of State Assemblymember Patrick O'Donnell from 2015 to 2019.
- Leaders from CalRHA met with Governor Newsom's Legislative Deputy for housing/rental housing issues, Myles White, in March where we discussed key legislation that has been introduced so far, as well as creative ways to help fund rent assistance in the state.
- The Governor gave his State of the State on March 18th.

Legislative Update

- Policy Committees have begun hearing legislation, and several bills of interest are highlighted below.
- AB 2059 (Flora, R-Ripon) *Tenancy: Obligations of Landlords: Repairs* — This bill would prohibit a landlord from being liable for dilapidations rendering the premises untenantable, unless the landlord receives written or oral notice of the dilapidations, and the landlord is given a reasonable time to repair the dilapidations. (SUPPORT)
- AB 2114 (Irwin, D-Thousand Oaks) *Exterior Elevated Elements: Inspection* — This bill would also allow licensed civil engineers to perform balcony inspections. Set for a hearing on March 20th in Assembly Housing and Community Development. (SUPPORT)
- AB 2187 (Bryan, D-Culver City) *Office of Tenants' Rights and Protections* — Placeholder bill stating the intent of the Legislature to enact subsequent legislation to establish the Office of Tenants' Rights and Protections. (OPPOSE)
- AB 2216 (Haney, D-San Francisco) *Household Pets* — Would state the intent of the Legislature to enact legislation related to a landlord's ability to prohibit common household pets in residential tenancies. (OPPOSE)
- AB 2230 (Bennett, D-Oxnard) — Would state that California's anti-trust laws can be applied to anti-competitive practices occurring in residential housing and would clarify that City Attorneys may investigate and prosecute anticompetitive behavior. (OPPOSE)
- AB 2278 (Carillo, D-LA) — CalRHA Sponsored bill which would have the Housing and Community Development Department post the correct allowable yearly rent increase for units subject to AB 1482. Set for a hearing on March 20th in Assembly Housing and Community Development. (SUPPORT)
- AB 2498 (Zbur, D-Santa Monica) *Housing: the California Housing Security Act* — Would, upon appropriation of the Legislature, establish the California Housing Security Program to provide a housing subsidy to eligible persons, as specified, to reduce housing insecurity and help Californians meet their basic housing needs. To create the program, the bill would require the Department of Housing and Community Development to establish a 2-year pilot program in up to 4 counties, as specified. The bill would require the department to issue guidelines to establish the program that include, among other things, the amount of the subsidy that shall be the amount necessary to cover the portion of a person's rent to prevent homelessness but shall not exceed \$2,000 per month. (SUPPORT)
- AB 2801 (Friedman, D-Burbank) — Prohibits a landlord from requiring a tenant to pay for or to assert a claim against the tenant or their security deposit for, professional carpet cleaning or other professional cleaning services. (OPPOSE)
- SB 1201 (Durazo, D-LA) *LLC Owner Transparency* — Would require each entity to disclose the name of each person with substantial control over the entity both upon creation and upon submitting their required biennial business filings. (OPPOSE)

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A Few Words About Accepting Rent Payments Online

Daniel Bornstein, Bornstein Law

In an ongoing series of how tenants can pay rent and the potential pitfalls of demanding rent and how it is paid, it gets interesting when we talk about accepting online payments.

No doubt, the digital age has transformed rental relationships by making it seamless for tenants to pay rent and for property owners to get paid. We caution owners, however, that while paying rent online can be offered as an option, it cannot be the only option. If the Internet-savvy tenant wants to pay online, great. But paying online cannot be the exclusive option.

Rent payments can come in the form of mailing a check, inserting it in a rent box, directly depositing it in the landlord's account, delivering it to a resident manager, and so forth.

We are personally big fans of AppFolio and Zelle, but there is a plethora of other online platforms to pay rent. Also known as "peer-to-peer payment services", individuals can use a bank account or a credit/debit card to pay conveniently, safely and securely from anywhere.

Yet technology is no panacea

Every so often, we have to remind clients that once an eviction action is started, the landlord cannot accept a penny because whenever money exchanges hands, it re-establishes the tenancy; we have to start over.

One potential issue arises when the tenant who is the defendant in an eviction makes an online payment. Their landlord did not take any action to deposit the funds; the tenant made the transfer unilaterally, without the landlord's knowledge. In this scenario, the landlord should refund the money online if possible and if not, mail a refund with a note kindly informing the tenant that the funds are not accepted.

Another thing to be watchful of is who is making the online rent payment

Is the tenant himself or herself making the transaction, or is it a third party? If someone other than the tenant is making a rent payment, they can later claim that they are entitled to occupy the premises and enjoy all of the tenant protections afforded in the jurisdiction at hand.

Oftentimes, we see this occur when a tenant passes away and their caregiver or family member embeds themselves in the unit, perhaps to take advantage of below-market rates.

Landlords can be dismayed to learn that by accepting third-party payments, they have inadvertently created a tenancy. This can be avoided if there is firm groundwork laid out before there is any financial transaction.

Bornstein Law has a document prepared for the third party to waive any claims that they are entitled to possession of the tenancies and remember, if someone paying rent on behalf of another person refuses to agree to these terms, the landlord or their agent can say "no thank you" and decline the payment.

Factors to consider

Small "mom and pop" landlords who live in or near their rental property — say those who own a duplex or a triplex — normally have little quandary in how to accept rent payments. Yet when a landlord has a large portfolio of properties and units, it is imperative to be organized and have a carefully choreographed system to collect rents, preferably without the physical transfer of multiple payments every month.

We also recognize that some property owners are not tech-savvy and may be intimidated by learning how to accept rent payments through online platforms like PayPal, Venmo, and the like. This is a time for self-assessment.

There is nothing wrong with taking a paper check and making a trip to the bank. Some of you, in fact, enjoy the experience. Ultimately, when it comes to payment methods, rental property owners have to do what is best for themselves while trying as best they can to accommodate their renters.

from page 10 *Biden Housing Fix*

These proposals have the added benefit of being politically popular because they're largely targeted toward first-time and low-income homebuyers, Schuetz said. The Biden administration is being "quite realistic about what they can do" with Republicans having a majority in the House, she said.

"This is an issue where the president fundamentally understands that when homeownership feels out of reach for first-time homebuyers and renters are struggling to keep up, that we have to do something about it," Hornung told reporters Tuesday.

Biden's proposals, however, are unlikely to have a substantial impact in California, Schuetz said. The fundamental problem in California is a lack of supply — solutions to which tend to be more controversial, and that isn't substantially addressed by these proposals.

Owners benefit from good tenant relations

One area from which owners can benefit by maintaining a good relationship with their residents is when significant maintenance issues arise. Some issues require extensive work, perhaps even requiring the tenant to move out for a few days for the work to get done.

One owner I know, because he had always been responsive and fair, the tenants were more cooperative and understanding during the repair period. They agreed to temporarily stay with family which kept the costs reasonable and allowed the project to get done much quicker.

In my own case, years ago, I took over management of a 40-unit property in East Oakland. The property was in a rough location, had significant deferred maintenance, and came with a number of other issues. It was so bad that the tenants had organized and started a rent strike two months earlier. Obviously, the property financials were deteriorating rapidly.

I went door to door with one of my staff members and we asked residents at each apartment what were the top five concerns in their particular unit. No one had ever asked them this before. The problems ranged from pest control issues to old and torn carpets, to poor ventilation in the bathroom leading to mold.

My staff member, who was fluent in Spanish, asked them if they would be willing to pay the current month's rent if we could fix two of the five issues that month (we did not

have the money to fix all five issues for every apartment and we told them we would work on the remaining items over the course of the year). Long story short, most of them started paying. Over time, we built up trust with the tenants and the back rent was paid as well.

A few other common situations where having established good tenant relations help the owner include getting more engaged residents through resident referrals rather than cold prospects from Craigslist or Zillow; getting better resident cooperation when needing to do repairs, handling noise complaints and other disputes quickly and amicably; and perhaps most important, keeping lawyers and others with their own agendas from getting between you and your residents.

You don't need government between you and your resident

I hope these examples underscore the practical benefits of building positive landlord-tenant relationships in Berkeley's regulatory environment. By engaging in open communication and working cooperatively with residents, rental housing providers can avoid the potential legal and regulatory pitfalls that catch so many.

Building and maintaining positive relations with your residents is not just a good business practice, it's a strategic approach that can also be a counter force to the extreme policies and regulations our politicians keep putting into place.

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DATE	TOPIC
Wednesday, April 17, 5:30-7:00 pm	Election Kickoff: Strategy & Social Mixer
Thursday, April 25, 3:00 pm	Don't Run Afoul of Fair Housing Laws
Wednesday, May 1, 5:00-7:00 pm	New Member Open House
Saturday, May 18, 10:00 am	Mid-Morning Nosh, Network & Education

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.

Things I Wish They Taught High School Students

Mark Tarses: Landlording with Mark

I have rented a lot of apartments to freshmen college students over the years. There is a long list of things that I wish college freshmen knew, but many don't. A lot of college students are ill-prepared by their education and life experiences to leave home and live on their own. Here are two of those things.

How to use a washing machine and a dryer.

Whenever I buy a washing machine or a dryer for a rental, I always tell the salesman that I want a minimum number of controls and dials. Even so, it would help if all college students had done laundry at home before coming to Berkeley. One time, I was visiting a student tenant, and I heard a terrible racket coming from the laundry room. I opened the lid of the washing machine and discovered that the tenant was washing a pair of leather hiking boots. I stopped the washing machine. I asked him why he was washing his boots in the washing machine. He said: "Because they wouldn't fit in the dishwasher." Now, although high school students have to be very smart and get excellent grades to get into UC Berkeley, that doesn't mean that they know how to use a washing machine or a dryer. For example, I often have to explain to students that there is a lint filter in the dryer and

that they have to remove the lint, that it's important, and that the lint won't vanish by ignoring it.

How to use a vacuum cleaner.

I used to give my tenants vacuum cleaners in the hope that they would use them to keep their apartments clean, but I stopped doing that because so many of my vacuum cleaners broke down from misuse. Again, many college students have never used a vacuum cleaner before leaving home. I once had a tenant who wrecked the vacuum cleaner I gave her by cleaning her refrigerator. She said that there was something green, slimy, and smelly in the bottom of her refrigerator. She didn't want to touch the stuff, so she decided to remove this stuff with the vacuum cleaner. She somehow got the vacuum cleaner into her refrigerator. She said that as soon as the vacuum cleaner sucked up the slime, sparks flew out the motor, and the thing stopped working. She asked me for a new vacuum cleaner, but I didn't give her one. After that, I decided to let tenants buy their own vacuum cleaners in the future.

COMING ATTRACTIONS

Election Kickoff: Strategy & Social Mixer

Wednesday, April 17, 5:30-7:00 pm

Don't Run Afoul of Fair Housing Laws

Thursday, April 25, 3:00 pm

New Member Open House

Wednesday, May 1, 5:00-7:00 pm

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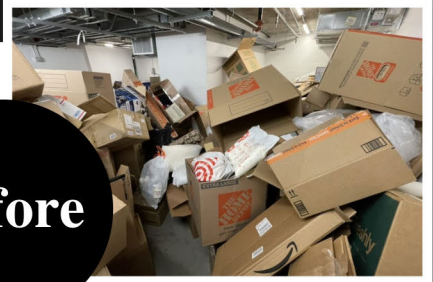
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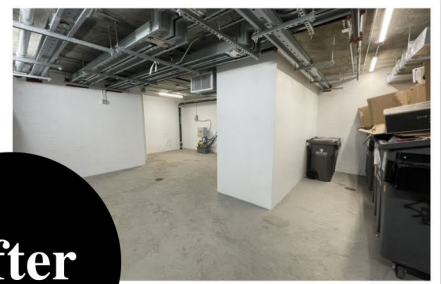
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In other cases, people wanting to move may decide to stay put rather than brave a housing market unfavorable to pets.

Pali Boucher, who founded Rocket Dog Rescue, has lived in the same apartment in San Francisco for 22 years. The place needs work, and she sometimes wishes her landlord would be more responsive, Boucher said, “but I moved in here because they accepted my pets.”

Along with several birds, she also owns five dogs, including a Doberman and a pit bull mix — two of the most notorious breeds among landlords, as many insurance companies won’t cover a unit where one is living.

Some of the biggest supporters of opening up more rentals to pets are California’s animal shelters, which end up with many of the animals people are forced to give up when they can’t find a home that includes them.

“Housing issues are the number one cited cause of people surrendering their pets to shelters,” said Jill Tucker, CEO of the California Animal Welfare Association. “It’s devastating to the people and to the animal.”

Kate Witzke the Shelter Behavior and Training manager works with Legend, one-year-old husky mix male dog in the play yard of the East Bay SPCA on Wednesday, Feb.

28, 2024, in Oakland, Calif. Legend’s owner was facing homelessness, and wasn’t able to find housing that would accept the dog.

Such animals make up just a portion of the animals at shelters, though — many are stray animals brought in by animal control or found by neighbors. Some families who need to re-home their pets can no longer count on shelters, as many of them have stopped taking “surrendered” animals, citing overcrowding and limited resources, Tucker said.

On Wednesday at the East Bay SPCA Oakland Adoption Center, several dogs abandoned by previous owners were still waiting on a new home, said Karalyn Aronow, the shelter’s vice president of operations. They include Lola, a pit bull whose owner had given her up when she moved to a new house, and Legend, a husky-shepherd mix whose owner, facing homelessness, wasn’t able to find a rental that would accommodate such a large breed.

“We’re hopeful that some sort of bill will be crafted that’s going to work out in the best interest of people and their animals, as well as the property owners,” Tucker said.

“There’s got to be a path forward, because something has to give at this point.”

ers in Concord were aware they would be impacted by the newly approved changes — potentially harming landlords who they said are already burdened by the increasingly expensive costs of maintaining rental housing and may now lose even more control over the units they own.

The Concord City Council ultimately agreed to loosen some restrictions for property owners.

One such change lowered the residency requirements for property owners who move into a unit after evicting the previous tenant. That timeline was set at 24 months, and exceptions may be given in the event of significant hardships, such as an unexpected medical or family emergency. Additionally, while the policies require that landlords petition a hearing officer for the ability to charge more if they feel it’s necessary to get a “fair return” on their investments, the council ultimately supported the right for both tenants and landlords to file lawsuits on their own volition.

“My biggest concern over all this is all the unintended consequences because, whether we like it or not, we do still live in a capitalist society,” Obringer said earlier this

month. “I do think this is a very important step, because I don’t want to see any more people falling into homelessness, but I’m going to be watching this very carefully.”

But a handful of local landlords and groups like the California Apartment Association opposed the city’s move altogether, arguing that Concord’s rules are now more punitive than state laws that are already in place to regulate rents and evictions.

Rhovy Lyn Antonio, the association’s senior vice president of local public affairs, said he will continue to advocate for what they consider to be fairer policies: “Although the council has turned a deaf ear to (property owners’) concerns, we must remain undaunted against further attacks against the industry in Concord and across the state.”



Concord Suspends Recently Passed Rent Control Ordinance

Bay City News, March 12, 2024

After passing a much-anticipated rent stabilization ordinance last month which was finalized by the city council on March 5, the City of Concord said it will suspend its implementation.

The ordinance was scheduled to go into effect on April 4, but now the policy may end up in the hands of the voters. On Friday, Concord's city clerk received a proposed referendum petition, indicating plans to gather signatures to place a referendum on ordinance the November ballot.

The city said its city attorney has ten business days to prepare and issue an impartial summary. Following this step, the petitioners will have 30 calendar days to gather the required number of valid signatures to allow the referendum to move forward.

Signatures will have to be verified through the Contra Costa County Clerk, and there must be 7,204 valid signatures from registered Concord voters to qualify for the November ballot.

The city said in a statement Monday that if the petition qualifies, the city council will have the choice of repealing the ordinance or placing it on the November ballot to let the voters decide.

The issue of rent stabilization in Concord has been discussed for years.

In January 2023, the council expressed its desire to enact tenant protections and reiterated that goal in Concord's Housing Element.

The council has since discussed the matter in eight public meetings on this topic and has heard from dozens of property owners and tenants.

The ordinance amends Concord Municipal Code Chapter 19.40 Residential Tenant Protection Program and increases the "just cause" eviction protections, expands the city's rent registry, and establishes a rent stabilization program. Single-family homes would not be subject to the proposed ordinance. Neither would rented condominium units or rented accessory dwelling units. Duplexes in which the owner lives in one of the units would also not be subject to either rent stabilization or just cause for eviction regulations.

The ordinance would limit annual rent increases to 3 percent, or 60% of the Consumer Price Index (CPI), whichever is lower, and will apply to multi-family rental complexes of two or more units built before Feb. 1, 1995. The city would also require landlords to have just cause before evicting tenants.

In February, the council voted 4-1 in favor of the ordinance, with Laura Hoffmeister dissenting.

Hoffmeister said she couldn't support the ordinance because it could punish landlords doing the right thing for a few who weren't. She also said she didn't see rent control solving high housing prices in other cities. She also said rent raises of 3 percent or 60 percent of CPI was too low.



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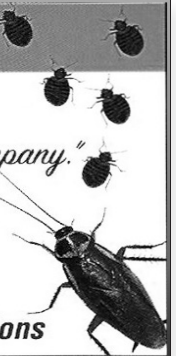
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