

FEB
2025



The Advocate for Berkeley's Rental Housing Providers

Founded 1980 • Charter Member, California Rental Housing Association
2041 Bancroft Way, Suite 204, Berkeley, CA • www.bpoa.org

Time to Get in Shape

Dan Lieberman, President, BPOA

Like many people, one of my goals is to get in better shape this year. Over the past few years, I have developed some poor habits when it comes to exercise and eating. No longer working in an office has kept me a bit too close to the refrigerator every day and, inevitably, that has led to weight gain over time. And, although studies have shown that over 64% of Americans abandon their New Year's resolutions by February, I intend to keep working on this.

Over the past decade or so, many housing providers have gotten fat in a different way. They got used to artificially high demand for rentals. Rents increased rapidly due to the tech boom with the Bay Area being the center of it all. I have heard many owners talk about waiting for the market 'to come back' to some semblance of what it was. I know people who are shocked they have vacancies. But frankly, what we experienced the last decade is not normal, and it isn't coming back.

Owning and managing rental properties has always required resourcefulness, but today's housing providers face mounting challenges. Rising insurance rates, increasing utility costs, higher maintenance costs and stricter rent controls are making it harder than ever to remain profitable.

With remote work now being entrenched in society, with many people relocating to more affordable states and cities, and with lots of new construction hitting the market (at a rate we haven't seen for nearly 50 years), supply and demand alone dictate that things have changed.

You need to look at yourself in the mirror and consider changing the way you operate your properties. Now it's time to do the reps and trim some of the fat. Below are a few suggestions for reducing expenses and staying ahead in a competitive market.

Leverage Technology for Smarter Management

There are a number of technology options now that help property owners manage rentals, offering tools that save time and reduce costs. Even small-scale property owners can benefit from these advancements:

Automated Platforms: These software platforms automate rent payments, keep you flagged for uncompleted maintenance requests, and help ensure that tasks needed to meet compliance are not dropped.

Smart Thermostats: If you are responsible for the heating or cooling expenses in your apartments, installing smart thermostats can optimize energy use and reduce utility costs.

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COMING ATTRACTIONS

Event: Kicking Off 2025 with Products You Can Use
Saturday, February 15, 9:30 AM

On-Site Owners Group Discussion Meeting
Tuesday, February 25, 3:00 PM

**Webinar: How to Keep Property
in the Family for Generations**
Thursday, February 27, 3:00 PM

Asset Protection Open Forum
Thursday, April 3, 3:00 PM

See page 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

Billionaires

Albert Sukoff, Editor

Literally front and center at the Trump inauguration were a quintet of billionaires. Elon Musk, Tim Cook, Mark Zuckerberg, Jeff Bezos and Sundar Pichai were seated behind the Trump family but in front of Trump's cabinet appointees. They were meant to be seen. No one missed this.

Coincidentally, I have recently watched several left-leaning posts on YouTube, all of which had as a theme that billionaires should not exist; that they are a flaw in society and a detriment thereto. The gist of all these posts was that billionaires can only become billionaires by unconscionable behavior which is exploitative of the mass of humanity. They claim that Jeff Bezos overworks and underpays his employees. Apple exploits Chinese workers. Elon Musk is just plain nuts and Bill Gates knew Jeffrey Epstein. Evidently George Soros and Michael Bloomberg are okay, as are Taylor Swift and Oprah Winfrey. All these posts insisted that this concentration of wealth is a major cause of income maldistribution and as such, an anathema to society.

The income distribution effects of billionaires is interesting. It assumes, logically on the surface, that if there were no billionaires, there would be greater equity among the world population. Is this true? Clearly redistributing the wealth of the richest people on earth would make them poorer and someone else richer. But to what degree?

In his grilling of the Trump nominee for Treasury Secretary, Senator Bernie Sanders predictably pointed out the three richest men at the Trump inauguration had a cumulative net worth greater than half the US population combined. I have heard this before. It is a misleading statistic. Credit Karma reports that 31% of American households have a net worth of zero, or worse, a negative net worth. In other words, anyone with a net worth of one dollar has more wealth than about one-third of the US population combined. This says way more about the average American household than the trio of billionaires to whom Sanders referred.

Advocates of redistribution say that there are too many billionaires and that this keeps the multitudes in poverty. The real problem however, is that if you want to tap the mega-wealth of billionaires to make the lives of the masses more economically stable, there are not nearly enough billionaires.

I have this sphere in my office about the size of a softball. You probably have one too. Her name is Alexa and it is incredible what she knows. I asked Alexa about billionaires. She tells me that their average net worth is a bit over \$7,500,000,000. Coincidentally, there are about 7,500,000,000 people on earth. This implies that the average billionaire has about a dollar for every person on the planet. According to Alexa, there are fewer than 3,000 billionaires worldwide. This implies that confiscation and redistribution of the entire net worth of all billionaires would be sufficient to give every one of us \$3,000. Once. For the poorer people around the world, that would be very nice. It does not, however, solve the problem of poverty.

There are other companies around the world as large or larger than those effec-

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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.**

From a public policy perspective, there are several changes to the law both locally and state-wide. Some of the new state laws went into effect on January 1 and others will be introduced over the course of the first half of the year. Either way, ignorance of the law is no excuse so sharpen your pencil and let's take some notes!

AB 2493: Rental Application Fees

This law went into effect on January 1, 2025, and adds conditions to those who charge and/or take rental application fees from prospective tenants. It prohibits rental housing providers from taking multiple application fees without a more "equitable" process for choosing applicants. It permits a landlord to charge an applicant an application fee *only if* the landlord offers an application screening process that considers applications in the order in which they are received, [SB/OR] an application screening process in which the rental housing provider or their agent returns the entire screening fee to any applicant who was not selected for tenancy, regardless of the reason. The return of the fee must be given within 7 days of selecting the final applicant or within 30 days of when the application fee was submitted, whichever occurs first. This law applies to all rental housing providers who take an application fee. If you do not choose to take or charge an applicant a fee, then the law does not apply.

AB 2747: Positive Rental Credit Reporting

This law will go into effect on April 1, 2025, and only applies to certain rental housing providers. It requires specific landlords to offer each tenant obligated on a lease the option to have positive rental payment information reported to at least one nationwide consumer reporting agency. It's applicable for owners who have one building that is comprised of more than 15 units OR owners with rental properties that are in a corporation or an LLC where one of the members of the LLC is a corporation (regardless of the building size).

For leases entered on or after April 1, 2025, the offer to report a positive rental payment must be made at the time of the lease agreement and at least once annually thereafter. For leases outstanding as of January 1, 2025, the offer to report a positive rental payment must be made to the resident no later than April 1, 2025, and at least once annually thereafter. A rental housing provider may charge a tenant the lesser of \$10 per month or the

actual cost to the housing provider to provide the service, unless the landlord does not incur any actual cost to reporting the positive rental payment. This is only for reporting on-time positive rental payments in which the tenant has opted into the reporting process.

AB 2801: Security Deposits Additional Regulations

In 2024, the security deposit law was rewritten to limit the amount in which certain rental owners could take for security deposit on a rental unit. The most recent modifications to the law refer to the process in which owners document and make repairs in anticipation of the return of the security deposit.

This law specifies that claims made by a rental housing provider for security deposit deductions must be limited to a reasonable amount necessary to restore the premises back to the condition it was in before the tenancy, less standard wear and tear. It requires that owners must take photographs of the unit within a reasonable time after the possession of the unit is returned to the rental housing provider, but before any repairs or cleaning that will be deducted from the security deposit are made. Owners must also take photographs/videos within a reasonable time after the repairs or cleaning have been completed and provide them to the former tenant.

The law will be a two-part phase-in. The first part of the law takes effect starting April 1, 2025, and will require the rental housing provider to take the photographs/video within a reasonable time after the tenant has vacated the unit. Starting July 1, 2025, rental housing providers must take photographs/videos of the leased unit immediately before or right at the inception of the tenancy.

Tenancies created prior to April 1, 2025, are not subject to the above requirements. This law applies to all who provide residential rental housing.

The Berkeley Rental Housing Coalition is the political and legal arm of the BPOA. We fight against unbalanced, unfair, and poorly thought-out rental housing policy. To support this work, please consider upgrading your membership. The BHRC employs the feet-on-the-ground who hold the elected officials' feet to the fire. To lend your support, contact Executive Director Krista Gulbransen, krista@bpoa.org or (510) 304-3575.

Berkeley Program Aims to Add Housing

J.K. Dineen, San Francisco Chronicle, January 6, 2025

For years, recently retired Berkeley City Council Member Susan Wengraf has been hearing the stories of Berkeley homeowners who opt to leave unpermitted secondary housing units vacant.

Some have been burned by previous tenants who stopped paying rent upon learning the unit was illegal. Others are worried about liability risk or getting slapped with a notice of violation if a neighbor were to file a complaint. Many are afraid of taking chances on renting out an unpermitted apartment in a city with some of the strongest pro-tenant laws in the country.

It bothered her because many of these apartments — also known as “granny flats” or accessory dwelling units (ADUs) — provide perfectly adequate housing and are among the most affordable accommodations in a city where home values average nearly \$1.3 million and the average rent is almost \$2,700, according to Zillow.

“There are a lot of horror stories out there,” said Wengraf, who retired in December after four terms as a City Council member and 32 years of public service. “Unfortunately a lot of these homeowners are older single women who can be easily intimidated. It can be a very bad situation.”

It was those tales that inspired Wengraf to work with Berkeley city planners to devise an amnesty program that gives single-family homeowners a path to legalizing previously unpermitted accessory units, a category that can range from converted basements and garages to in-law garden units.

During a four-year pilot program that started Wednesday and extends through 2028, Berkeley homeowners can approach city planners about getting unpermitted accessory units inspected for safety, and legalized, while being assured that the process will be confidential and no penalties will be assessed on the previously undocumented apartment.

“It’s a situation where people have these units and are nervous about coming clean with the city,” said Jordan Klein, Berkeley’s director of planning and development.

“We want to make it as easy for people to come out of the shadows.”

The program offers two legalization paths: a certificate of occupancy or a housing certificate of compliance.

To obtain a certificate of occupancy, property owners follow the standard building permit process, submitting site plans and detailing code compliance requirements such as fire-resistant rating of a wall. To receive a certificate of compliance, property owners must demonstrate that the unpermitted unit already meets housing code and minimum fire and life safety standards.

“It’s a situation where people have these units and are nervous about coming clean with the city. We want to make it as easy for people to come out of the shadows.”

**Jordan Klein, Director of
Planning & Development**

The less rigorous “certificate of compliance” option — which just requires an inspection using federal Housing and Urban Development standards — was a result of a bill pushed in 2023 by the Casita Coalition, which advocates for ADUs.

Denise Pinkston, a Berkeley resident who founded the Casita Coalition, called the “certificate of compliance” option “a trade-off between safe affordable housing and no housing.” She said

she is confident that the program will be popular; similar amnesty initiatives have worked well in Los Angeles and Santa Cruz.

“I have friends in Berkeley who have unpermitted ADUs that they couldn’t afford to bring to building code and they are all going to look at this,” she said. “On my block there must be six ADUs that are of questionable legal status. The neighbors just look the other way — we don’t know if they are safe.”

She predicted “there will be a run on finding HUD inspectors” qualified to sign off on certificates of compliance.

Wengraf called the promise of confidentiality the “fire-wall” that she hopes will give homeowners enough comfort to come forward.

“People need to have the confidence that they aren’t going to get cited or reprimanded or something horrible is going to happen to them if they come forward and said, ‘Hey I have this unpermitted unit. I need your help. What do I have to do to bring it up to health and safety standards?’” she said.

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Here's Your Chance to Pay Nothing More and Possibly Get Your Money Back!

In September 2023, the BPOA newsletter published an article regarding Measure MM/Partially Covered Unit registration fees. Claims by some Berkeley property owners contended that Measure MM — passed in 2020 — violated the California Constitution and California Civil Code. I agreed and decided to personally file a claim as *In Pro Per* (i.e. without a lawyer), representing myself and five other small landlords who were harmed by this law. Each owner in the lawsuit owns no more than two rental units and all

owners had acquired their rentals from their now-deceased parents. In addition to my filing, Alan Wofsy, a long-time rental property owner with multiple rentals, filed a similar lawsuit of his own in Alameda Superior Court. He is represented by attorney Frank Busch.

Wofsy's lawsuit recently received an order by the court which now certifies it as Class Action. This means that attorney Frank Busch can represent any and all rental housing providers who have paid a registration fee as a direct result of Measure MM. Should Alan Wofsy prevail in the lawsuit, any member of the Class action suit would have the chance to recuperate the fees they already paid in addition to possibly never having to pay a Measure MM fee again.

With the Wofsy case in progress, our group of five filed a Request for Judicial Notice with the Court. It asks that the filed Claim be reviewed because we believe it represents the interests of small Berkeley landlords who have paid MM registration fees for the past three years. In our request we seek:

1. reimbursement of **all** MM registration fees paid by all landlords (NOT to be paid by other landlords via an increase in Rent Board registration fees);
2. an end to all future MM registration fees; and
3. an end to the Rent Board's coercive late-fee penalty practices, which routinely violate California Civil Code Section 1947.7.

As is routine in Joint Class Action lawsuits, the Court will adopt a plan (called a "Class Action Notice Proposed

Plan") which will employ an outside firm to contact the approximately 3,315 landlords for whom the Rent Board reports having paid the Measure MM registration fee. With the fee at approximately \$200 per unit, that's at least \$600,000 in annual registration revenue, and over \$2,500,000 since the registration requirement commenced. The Class Action attorney is entitled to up to one-third of any recovery of attorney's fees which are awarded at the Court's discretion.

In September 2023, the BPOA newsletter published an article regarding Measure MM/Partially Covered Unit registration fees. Claims by some Berkeley property owners contended that Measure MM — passed in 2020 — violated the California Constitution and California Civil Code.

In ordinary Class Actions, potential members of the Joint Class will automatically be a part of any settlement, unless they choose to opt out of the Class Action lawsuit and pursue legal remedies on their own. At the present time, our small group has decided not to act on this option given the high cost and complexities of filing suit. Our hope is that the Court will consider both Wofsy's interests as a larger landlord, and pair it with our interests as more atypical "mom-and-pop landlords."

When the lawsuit is resolved — hopefully in our favor — all landlords who paid an MM fee can expect to be contacted by the Joint Class Action Administrator, a company named SSI. Plaintiff Wofsy and his attorney have

devoted considerable time and risked substantial financial resources towards this effort. They have paid more than \$20,000 to the owner of SSI (EPIQ) to cover the administrative costs related to a Class Action suit. Wofsy and his legal team deserve not only our thanks, but a hand with the attorney's fees. We hope that if this law has had an impact on you, then you will be willing to donate to Wofsy's legal fund.

We will keep you apprised of the next steps through our website and this newsletter. If you have any questions in the meantime, please email bpoa@bpoa.org and they will make sure the message gets to me.

Lance Montauk is a long-time Berkeley resident, mom-and-pop landlord, and BPOA member.

Hannah Kanik, *San Francisco Business Times*, December 16, 2024

A 17-story apartment building poised to rise on the site of the former Regal UA Theatre in downtown Berkeley received its entitlements but there's still one more hurdle to clear.

San Francisco-based developer Panoramic Interests' plans call for tearing down part of the historic theater at 2274 Shattuck Ave. while preserving the facade and lobby and building a massive 227-unit apartment building behind it. It joins a growing number of tall towers that developers are trying to build in the housing-constrained city, both downtown and near the UC Berkeley campus.

"Things are slow right now in the development world, but Berkeley is a bright spot," said Patrick Kennedy, owner of Panoramic. "The downtown in Berkeley is entering what we can call its Golden Age."

The entitlement is an important milestone, but observers expect a local group, *Save the UA Berkeley* — which lobbied for the 90-year-old theater to be declared a historic landmark and therefore protected from demolition earlier this year — to appeal the decision. The group's attempt to achieve landmark status failed, but the city's Landmarks Preservation Commission designated the facade of the property a historic landmark, which Panoramic plans to preserve and enhance in its project.

A representative from *Save the UA Berkeley* told the *Business Times* the group is considering appealing the entitlements in light of two reports from a consultant hired by the city that question whether the CEQA exemption granted for the project was justified.

"Our group feels there are major questions about whether the city followed a proper process when granting the categorical exemption to CEQA to the developer under AB 1633. And in turn, there are serious questions about the legitimacy of the ZAB approval, because the board voted based on incomplete information," said Laura Linden, spokesperson for the group.

The appeal window closes 14 days after the decision, and if the group chooses to do so it would bring the issue to the City Council for a final decision.

Kennedy said Panoramic is now focusing on raising capital for the project and anticipates construction to start in late 2025 or early 2026. The apartment building would include a ground floor Art Deco-style cafe and 23 very low income units, granting it a density bonus.

While the project was entitled at 17 stories, Kennedy said they are considering pursuing entitlements for a bigger

project there with the help of the new state density bonus AB 1287, which effectively doubles the development potential of a site with the addition of more affordable units. If Panoramic chooses to do so, the project could stretch to 22 stories, he said.

The developer also wants to build the tower with mass timber, a kind of fortified wood that is more common in Europe and Canada than in the United States. Kennedy said they are in the process of determining if the project would be feasible in Berkeley or not.

Panoramic is behind several other Berkeley apartment projects, including 1752 Shattuck Ave., a seven-story, 68-unit project with 1,200 square feet of commercial space that was approved by the city in January 2023.

This isn't the first Berkeley housing project to sprout on the site of a former theater. Rhode Island-based developer Gilbane is pursuing a development at the former California Theater that would rise 23 stories and include 148 units and a performing arts space. Gilbane initially pitched an 18-story apartment, but chose to rework the unit configuration there with more three-, four- and five-bedroom units to be more financially feasible and in line with the current market.

New pro-housing laws from the state and local zoning code changes have made room for taller buildings and higher density in Berkeley, where they were once a rarity. The city approved a slate of changes to allow for taller buildings and a denser downtown over the years, and up-zoned the neighborhood south of UC Berkeley's campus to allow buildings as high as 12 stories to help address housing scarcity for students and faculty.

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Tiffany Van Buren, BPOA Deputy Director

Photographic Evidence: a New Standard for Security Deposit Documentation in 2025

Last November, our state assembly rolled out a new law designed to address an issue that's been brewing for years — unfair security deposit deductions. Unfortunately, some landlords have given the rest of us a bad name by treating deposits as an easy revenue stream rather than a way to cover legitimate damages. Enter **AB 2801**, which changes Civil Code 1950.5.

This new law requires landlords to provide **photographic evidence** to back up any deductions from a tenant's security deposit. While that might sound like another headache for housing providers, I'd argue it's something we should already be doing. Photo documentation is just good property management. With the right tools and a little preparation, complying with this new rule doesn't have to be overwhelming.

Breaking Down AB 2801: What You Need to Know

Here's a quick look at what this new law actually requires:

Photographic Documentation:

- Before move-in: Take photos of the entire unit, from floor to ceiling, to show the property's condition.
- After move-out: Photograph any damage, cleaning issues, or needed repairs.
- For specific deductions: Take before-and-after photos of damaged or dirty areas once repairs or cleaning are done.

Limits on Carpet Cleaning Charges:

- Landlords can no longer mandate carpet cleaning at move-out or charge tenants for it unless there is photographic proof that the carpet is soiled beyond ordinary wear and tear.
- Routine carpet cleaning after a tenancy ends is considered the responsibility of the landlord, not the tenant.

The Goal of the Law:

- To reduce disputes over security deposit deductions by requiring clear visual proof.
- To ensure tenants are treated fairly while also protecting landlords from false claims.

Who's Affected?

- Every landlord in the state, regardless of the size of their property or number of units.

How to Make Compliance Simple

I get it — new regulations can feel like a hassle, but this one doesn't have to be. With a few tweaks to your opera-

tion, you can make this a seamless part of your rental process.

Be Prepared

Having the right tools is half the battle. Here's what I'd recommend:

- A good camera: Your smartphone probably works just fine.
- A time and date stamp: Some cameras have this built-in, or you can use an app (more on that below).
- A reliable way to organize and share photos: Tools like Google Photos, Dropbox, or property management software (like Appfolio or Buildium) are lifesavers.
- A checklist: This keeps you consistent. List everything you need to photograph, including walls, floors, appliances, light fixtures, and so on.

Tips for Using a Phone Camera

If you're not confident taking photos, don't worry — your smartphone can do most of the work. Here are a few simple tips to get better results:

- **Lighting is Key:** If possible, take photos during the day with natural light streaming in. If it's too dark, turn on the lights in the room and use your phone's flash sparingly (it can cause glare).
- **Steady Hands:** To avoid blurry photos, hold your phone with both hands or use a phone tripod. Take a moment to steady yourself before snapping the picture.
- **Angles Matter:** Stand back and take wide shots to capture entire walls or rooms. Then, move closer to highlight details like scratches, stains, or damage.
- **Keep it Clean:** Wipe your phone's camera lens with a soft cloth to ensure clear and sharp photos.

Best Apps for Time and Date Stamps

Many phones don't automatically add time and date stamps to photos, but some apps make it easy:

- **PhotoStamp Camera:** A straightforward app that lets you add time and date stamps directly to your photos.
- **Timestamp Camera:** Offers customizable stamps, including location and text, which helps organize photos.
- **Marki:** Simple to use and allows you to batch-process photos with time and date stamps.

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Meshing Your Tenant Screening Techniques with a New Law

Daniel Bornstein

We were once asked when the most successful eviction is? Our response: One that never occurs at all.

Our law offices are accustomed to nightmare tenants who do not pay rent, wreak damage to the unit, and create unpleasant or even hostile living experiences for neighboring residents. Landlords do not call to tell us that their tenants make timely rent payments, take good care of the property, communicate well, and are enjoyable people to interact with.

Although we rarely encounter these harmonious rental relationships, we know ideal tenants can be found with diligent and consistent tenant screening. Yet, when vetting prospective renters, housing providers must comply with the law.

We are well into 2025, but our office is still fielding questions about laws surrounding tenant screening fees, so let's review the revisions to Civil Code 1950.6, the result of legislation aimed to enhance transparency in the tenant application process. Landlords and their agents are encouraged to adjust their application procedures to ensure they are aligned with its provisions.

Before we set off to explore the key components of this law, we need to understand that housing providers can choose not to charge any fees. Many landlords prefer not to risk facing the consequences of violating the law, and/or do not want to take on the administrative burden of managing fees and refunds. That is perfectly fine, and the new provisions do not apply.

With that in mind, let's summarize the rules for those housing providers who charge tenant application fees.

Application when there is no unit to rent

Landlords are prohibited from charging tenant screening fees if they know or should have known that no rental unit is available or will be available within a reasonable time. Makes sense, right? Landlords are in the business of providing housing and are not in the business of profiting from fees.

If an advertisement for a rental unit gets a brisk response, housing providers may consider charging fees until the application is actively reviewed.

Processing a conveyor belt of applications

Applications must be processed in the order received, and landlords are required to approve the first applicant who meets the established screening criteria. More on that later in this article.

Refunding screening fees when a potential tenancy is denied

If an applicant is not selected, landlords must refund the screening fee within specific timeframes:

- Within seven days after leasing to another tenant.
- Within 30 days of the application's submission if no decision has been made.

Credit Report Access

Applicants who pay a screening fee are entitled to receive a copy of their credit report within seven days.

Let's talk about "first come, first serve"

The law prescribes that although California landlords are not required to automatically accept the first rental applicant, they must process applications in the order received and approve the first qualified applicant who meets their stated screening criteria.

We want to stress that landlords need not lose control over tenant selection decisions. The key is to set a high bar in terms of stated criteria before handing over the keys to the rental applicant, and there can be several boxes to check.

This screening may include an evaluation of income, employment verification, landlord references, and criminal background checks (within allowable legal limits). If one applicant does not meet all of the qualifications, housing providers can move on to the next applicant.

We want to stress this point because many housing providers are under the false impression that they must rent to the first candidate who has a high enough credit score to qualify when in fact, credit scores are not the only consideration in selecting a new tenant.

However, there has to be specificity, transparency and consistency

One, the landlords must disclose their tenant screening criteria to all prospective rental applicants in writing before accepting application screening fees. Secondly, the criteria must be applied consistently to all applicants to ensure fair treatment; we have to have uniform standards for qualification and not single out any tenants by using a different set of criteria.

If the landlord is sued because they did not accept a rental application, the narrative we'd like to have is that all applicants were notified of what qualifications the successful candidate needs to have. If a disgruntled rental applicant

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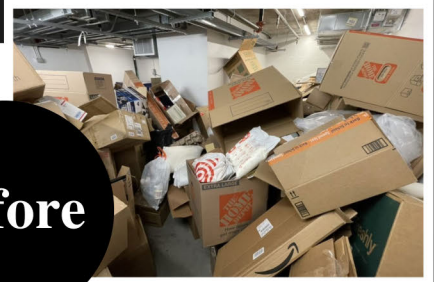
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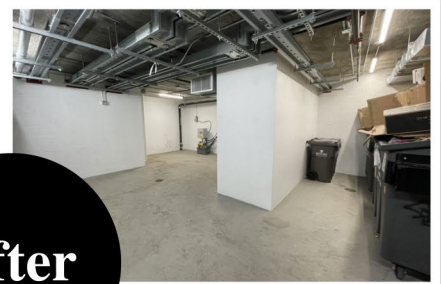
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Before



After



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Help with Positive Rent Payment History Reporting

The thought behind Assembly Bill 2747 was that rent-reporting services allow one of the largest (if not the largest) monthly payments to be added to a renter's credit reports, which may help renters build credit and increase credit scores. Americans who rent an apartment or home usually do not have their on-time rental payments indicated on their credit reports, and as a result, some renters might not have much of a credit history, making it hard to see that same credit boost that homeowners receive by paying mortgages. However, all three of the major credit bureaus — Equifax, Experian and TransUnion — are willing to include rent payment information in credit reports if they receive it.

There are many software reporting services available. None of those services featured have been used or tested by BPOA, but we thought they might be helpful for those of you who need to comply with the law.

- **Azibo:** Housing providers must sign up, and then both housing provider and renter may use the service to make free payments using bank transfer, cash or Azibo's CashApp payments. Renters may also sign up for Azibo's Credit Boost program for \$4.99 a month, which reports on-time rent payments made on its platform to Equifax and TransUnion.
- **Boom:** For \$3.00 a month (or \$36.00 per year), users can get their rent reported to all three credit bureaus. Up to 24 months of past payment history is available for a \$25 one-time fee.
- **ClearNow:** This service debits a renter's rent payment from their checking or savings account, and there is no cost to renters although housing providers must be signed up to the service. ClearNow reports rent payments to Experian.
- **Esusu:** This service reports on-time rental payments to all three major credit bureaus and requires that a housing provider have a service agreement.
- **PayYourRent:** PayYourRent reports to all three credit bureaus, but renters must pay their rent through the PayYourRent portal for those payments to count.
- **Piñata:** The service costs \$5.00 per month or \$60.00 per year and includes back reporting and reports to all three credit bureaus. The service also offers "Piñata Pay" which can be used to pay rent directly and earn users extra rewards — but use of the payment service is not a requirement.
- **RentRedi:** The service is offered with landlord verification. It costs \$5.99 per month, and reports rent payments to all three credit bureaus.
- **Rental Karma:** Initial setup is \$75.00, and the service costs \$8.95 per month. Rental Karma transmits to TransUnion and Equifax.
- **Rent Reporters:** There is a one-time enrollment fee of \$94.95, which includes up to two years of reported rental payments. From there, users can enroll in a monthly plan (\$9.95 per month) or an annual plan (\$7.95 per month). Rent Reporters transmits to TransUnion and Equifax.
- **Rock the Score:** This service has an enrollment fee of \$48.00, and the ongoing service costs \$6.95 per month. Rock the Score transmits to TransUnion and Equifax.



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L.A. Area Fires Add to Burdens on Renters

Christian Leonard, San Francisco Chronicle, January 21, 2025

More renters in the Los Angeles area were already experiencing financial strain from housing costs than in most other large U.S. metro areas. But the record destruction caused by the Southern California fires has made the housing supply there even tighter, potentially driving up prices for tenants.

About 57% of renting households in the Los Angeles metropolitan area spent more than 30% of their income in 2023 on housing costs, including utilities. Those renting households had the 10th highest rate among the 50 most populous U.S. metro areas, according to the latest data from the U.S. Census Bureau's American Community Survey. The rate for the U.S. overall was 50%, slightly higher than the San Francisco metro area's figure of 48%.

While San Francisco is unlikely to see the scale of destruction that the Los Angeles area is experiencing, some other parts of the Bay Area, including Moraga and Orinda, are at high risk of firestorms. And the potential effects of a natural disaster on housing affordability very well could play out similarly in Northern California.

Public officials and housing agencies use the 30% rule, which indicates how many households are "cost burdened" by housing expenses, as a rough indicator of a region's affordability.

Like the Bay Area, the Los Angeles region has long struggled with high rents and a tight housing supply. The median asking rent for a one-bedroom apartment in the city was \$1,843 in December, according to the most recent data available from Apartment List. That's slightly higher than the median price in Oakland — and hundreds of dollars more than the national figure.

Some housing research indicates Los Angeles' vacancy rates are among the lowest in the U.S., keeping competition high. The fires could make that dynamic worse for renters.

A Chronicle analysis indicated that about 14,800 structures have been destroyed or damaged by the Palisades and Eaton fires alone, though it's unclear how many of those were rental homes. A more limited analysis from real estate brokerage Redfin found that about 6,300

homes have been destroyed by the two fires, the vast majority of them single-family homes.

But the company said the displacement is already having a ripple effect on the rental market, with rental page views on its website spiking and real estate agents reporting bidding wars over units. Some residents have also reported landlords for price gouging during the crisis, despite laws capping most increases to 10% and California Attorney General Rob Bonta emphasizing landlords cannot accept offers of rent above that cap.

*A 2023 Brookings
Institution study found
that natural disasters
increase rents more than
4% within a year and a half,
and that they often remain
elevated for more than five
years after a disaster.*

"Rents have already started rising and will likely continue to increase as displaced families seek temporary housing and look for permanent housing," Redfin said in a recent analysis. "Those increases will last as long as it takes to rebuild, which is likely to be two to three years at a minimum."

A 2023 Brookings Institution study found that natural disasters increase rents more than 4% within a year and a half, and that they often remain elevated for more than five years after a disaster. Multiple disasters in the same region increase prices even more.

"One thing that's unavoidable is that rents are going to go up. We're already starting to see it," said Anthony Orlando, a professor of finance and real estate at Cal Poly Pomona who co-wrote the study.

The effects on prices could last years after the fires, Orlando added. Older, more affordable buildings damaged by the blaze will probably be replaced with newer homes with higher prices.

Steps can be taken to mitigate the effects of disasters on rent prices, Orlando said — chief among them building more housing. Federal funds, such as those from the Community Development Block Grant's Disaster Recovery program, can help cities and counties build more affordable apartment units, he added.

Los Angeles city officials are also considering an eviction moratorium and rent freeze, though it's unclear when the City Council might vote on those proposals. Research has shown evictions generally rise in the years after a disaster as residents who have lost their workplaces struggle to pay rent.

Monitoring Systems: Everything from real-time water use, to leak detection, to when hot water is used, to energy consumption can be monitored and devices programmed for optimal utility savings.

Prioritize Preventive Maintenance

Schedule regular inspections and repairs to address small issues before they escalate. Even simple items like replacing filters in heating units; checking for signs of leaks under sinks or around toilets; or installing vent fans in bathrooms — even those with windows (many tenants keep their bathroom windows shut in the winter) to hinder potential mold growth will prevent bigger problems and reduce your operating costs in the long run.

Install energy efficient upgrades. Replace your exterior and common area lighting with LED fixtures. Install high efficiency water fixtures. The quality of these items has improved significantly in recent years. Many low-flow showerheads provide the feel of a strong flow. Install higher quality low-flow toilets. Most water wasted is by toilets needlessly running. Check weatherstripping and caulking to prevent drafts and improve energy efficiency.

Other Ways to Control Rising Operating Costs

Focus on Insurance-related Improvements. Insurance remains the largest cost increase for most property operators. Improving specific property conditions to qualify for lower premiums should be a high priority in your capital improvement budget. Focus on updating electrical panels and subpanels, checking for trip hazards, and keeping your roof maintenance up to date (when's the last time you had it inspected?). Speak with your insurance agent about what things you can do to make your property more attractive to insurers.

Review Vendor Contracts. Regularly review and re-bid contracts for services like landscaping, pest control, and cleaning to ensure you are getting the best rates. With our income limited by rent control, we need to focus on getting the best value on the expense side.

Financing and Tax review. Work with a tax professional to ensure you're claiming all allowable deductions. Look at accelerated depreciation schedules. Research local and state programs offering funding for energy-efficient upgrades or seismic retrofits.

Build Relationships with Tenants

Strong tenant relationships can indirectly reduce costs by fostering longer term tenancies and minimizing turnover. Satisfied residents are less likely to leave, reducing costs associated with turnover. For most properties, the cost of turnover (maintenance, vacancy, etc.) is the largest cost they incur. In addition, many owners underestimate the cost of poor resident relations — including calls to the rent board or code compliance rather than to you to deal with any issues that arise.

Pre-Covid, many Berkeley and Bay Area property owners became accustomed to always having high demand for their units. But all that has changed. Many people have moved to other areas now that they no longer need to go into the office every day. New construction now competes with you for residents. Even the university is now building long-overdue student housing!

So, the days of easy rent increases are gone. It's time to get your building operations in shape. I encourage you to review all aspects of your operations to improve your return on investment.

Wishing you much success in 2025.

Join Us for Quarterly Social Mixers with Fellow Members

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

DATE	TOPIC
Saturday, February 15, 9:30 AM	Event: Kicking Off 2025 with Products You Can Use
Tuesday, February 25, 3:00 PM	On-Site Owners Group Discussion Meeting
Thursday, February 27, 3:00 PM	Webinar: How to Keep Property in the Family for Generations
Thursday, April 3, 3:00 PM	Asset Protection Open Forum

Missed a webinar? Members can visit our On-Demand Library to watch playback recordings of past webinars, available one week after the live stream. Please note that some recordings are available for a limited time of just two weeks, so be sure to catch them before they expire!

Should You Accept Rent Payments with Bitcoin?

Mark Tarses: Landlording with Mark

Several property management companies have started accepting rent with cryptocurrency. Some student loans and car payments can now be made with cryptocurrency as well. Personally, I can't think of any reason why a landlord would accept cryptocurrency for the payment of rent except to cheat on his income tax by not reporting the income. Aside from the moral problems with this, there are two practical problems for a landlord who accepts cryptocurrency as a way to cheat on his income tax.

1. The tenant can blackmail his landlord.

The IRS may not know how much crypto a landlord has received in rent from a tenant, but the tenant does, and he can prove it. That's a dangerous position for a landlord to be in.

2. Cryptocurrency is not as crypto (secret) as people imagine.

Most people think that cryptocurrency is secret money and that the details of transactions in cryptocurrency like Bitcoin are known only to the parties involved and that governments have no way of finding out. I have always suspected that the IRS knows who is getting crypto but is keeping that under their hat.

The evidence backs up my suspicions. On several occasions, well-known companies in the United States have been hit by ransomware attacks in which the companies made a ransom payment with Bitcoin. In 2021, a ransomware attack on Colonial Pipeline shut down shipments of gasoline from Texas to the East Coast, creating a nationwide shortage. Many gas stations, mainly in the southeast, had to shut down for lack of fuel to sell. President Biden declared a national emergency. The

hackers demanded and were paid \$4.4 million in Bitcoin. Upon receipt of the Bitcoin by the hackers, an IT tool was sent to the Colonial Pipeline Company to restore their system. It took several days for the pipeline company to get everything back up and running again. This allowed the hackers time to distribute their loot. Nevertheless, a month later, the Department of Justice announced that they had recovered 85% of the ransom. There have been many other stories in the press like this one — a company paid ransom in Bitcoin, and later the U.S. government got most or all of the money back. If Bitcoin is truly anonymous, then how did the government get the money back? Predictably, they won't say.

from page 8

Nuts & Bolts

Practice using these apps to familiarize yourself before taking the real thing. A little preparation now can save you time and frustration later.

Why This Matters

I know what you're thinking: another regulation, another thing to worry about. But AB 2801 is actually a chance to protect yourself and your tenants. Disputes over security deposits are stressful and time-consuming for everyone involved. Having photo documentation means you've got the facts to back up your claims, and tenants feel reassured that they're being treated fairly.

Taking photos before and after tenancies isn't just about compliance — it's about being a professional landlord. With a little effort upfront, you can save yourself a lot of headaches down the road.

The new photo documentation requirements will be implemented in two phases. **Phase one** (March 1, 2025) requires rental housing providers to document the unit's condition within a reasonable timeframe after a tenant returns possession and before and after any repairs. **Phase two** (July 1, 2025) applies to all new leases and move-outs for existing leases signed before July 1, 2025. This phase mandates complete documentation of the unit's condition. So, don't wait until April 2025 to get started. Gather your tools, practice, and make this part of your routine. For extra help, stay tuned for our upcoming webinar, which will provide step-by-step instructions on documenting a move-in, including tips for compliance with new photographic requirements!

Executive Order Alert

On January 28, the President of the United States issued an executive order directing federal agencies to pause any federal financial assistance. Contrary to early reports, Section 8 rental payment assistance will not be impacted by the US President's directive to halt federal spending on grants and loans.

BPOA continues to monitor the situation and impact on our members.

Berkeley ADU Amnesty Program

Wengraf stressed that units need to be safe in order to be deemed legal: Amnesty doesn't mean that squalid hovels with shoddy wiring or leaky pipes will be given the city's blessing.

"There are rules and regulations," she said. "It's not like everybody is going to get a certificate of compliance. They are going to probably have to put some money into doing work to make it safe, which is the bottom line. We don't want people living in unsafe housing."

The program comes as the state is in the midst of a decade-long crusade to make it easier and cheaper to build ADUs, which are regarded as one of the most affordable and fastest ways to add housing stock. The laws, three more of which went into effect on Jan. 1, have resulted in more than 80,000 ADUs being permitted in California since the first reform bill was passed in 2016.

But studies have shown that for every permitted ADU, there are many existing units built in backyards or basements or attics without going through the legal process. Researchers at Stanford University and Massachusetts Institute of Technology found that between 2016 and

2020, the city of San Jose permitted 291 detached units, but another 1,045 informal ADUs were added.

Wengraf said bringing existing units up to code is potentially much cheaper than building new standalone ADUs, which generally cost about \$500 a square foot. She said she and her husband looked into putting a new ADU in their backyard "and calculated that we would never get our money back in our lifetime."

While Berkeley doesn't have accurate data on how many illegal units exist in the city, one planning report estimates there may be as many as 4,000.

"The potential to put 4,000 units back on the market and create safe housing is amazing," Wengraf said. "We will see if it's worth it to them to come forward."

Klein said the program is not a "carrot and stick" approach where those who don't choose to jump into the amnesty program could face penalties. Building violations in Berkeley are complaint-driven.

"We are trying to make it easy," he said. "We are ready to adapt. We have a team of staff members ready to work with all applicants that come forward."

Tenant Screening Techniques

gripes, housing providers can attest that after careful consideration, a more suitable candidate was found.

And that's it. Landlords and their agents often get into trouble by explaining why a tenancy was denied, whether it is because the rental applicant has children, there is an objection to sexual orientation, or that Section 8 housing vouchers are not accepted, etc. These discriminatory statements fly in the face of fair housing laws. When it comes to explaining why an application was turned down, less communication is more.

Parting thoughts

Of course, landlords and their agents should embrace technology and make use of the many tenant screening tools available to identify red flags. Yet, as we've said in many venues, the marvels of technology are no substitute for old-fashioned personal sleuthing — like asking a previous landlord if they would rent to the tenant again.

Keep in mind that tenant screening services can overlook many blemishes on a prospective tenant's records because of cloaked evictions and other concerning details about the applicant's past that cannot be ferreted out by technology.

Many housing providers with a sense of urgency to fill a vacancy and get cash flow do not conduct their due diligence in vetting rental applicants, but this process should not be done hastily. In the search for an ideal tenant, it is better to get it right the first time, even if it takes a while.

We need to balance the impulse of landlords to get cash flow against the possibility that a nightmare tenant is ushered into the unit. It may be well worth the wait to find an excellent tenant rather than settling for the questionable one. **Do the math.** Unpaid rent, property damage, and attorneys' fees can easily put a dent in the bottom lines of landlords who did not invest more time in the selection of a tenant.

At Bornstein Law, we'd like to work ourselves out of a job by once again saying that the most successful outcome of an eviction action is for one that never started in the first place because a problematic tenant was never selected at the outset.

Daniel can be reached at daniel@bornstein.law or (415) 409-7611.

Hiring the Right Painter for Your Property

By Alan Silverstein, All Los Angeles Painting Company

Finding and hiring the right painter is never easy. It's difficult to balance skill, price and quality. No matter how many references consumers get, they often don't understand the "ins and outs" of a quality paint job. Moreover, there's the possibility that they get over promised but receive less than they expected. Painting a house or rental property costs thousands of dollars and one should choose their vendor wisely. Here are some ways to get the best value for your money:

Paint Quality

Painting contracts often specify that a particular brand of paint will be applied to the building. That's fine, but did you know that paint manufacturers sell different grades of paint? Paint is generally sold in four general quality categories: Best quality, good, average, and cheap. You might assume your painter will use top-quality paint from Brand X, but in reality, your painter will probably choose the lowest quality to increase profits. There is a significant difference in performance and longevity between paints.

Even if the completed job looks fine and you're satisfied with it, you might have received an inferior paint job that won't last long because cheap paint isn't durable. To protect yourself, either purchase and supply the paint yourself — I highly recommend this — or inspect the receipts and materials beforehand to ensure you're getting what you paid for. The specific line of paint should also be clearly stated in the contract.

Change Orders and Extra Costs

Once you lock in your contracted price, don't assume it won't change. Change orders, which are additions to the original scope of work, increase the job's cost. Items like wood replacement, wrought iron railing repair, stucco repair, and additional caulking around windows often pop up and must be addressed. These unforeseen items can significantly raise the cost of a paint job. Some contractors perform the extra work and surprise you with the bill at the end.

The extra billing can be as shocking as it is unprofessional, yet the contractor may assume it's obvious that you owe for the additional work. The issue is that you weren't informed it would cost extra. Your best defense is to include in the contract that all extras must be agreed upon and authorized by you. Insist that change orders be discussed and approved before work begins.

Skipping Hard to See Items

Most property owners get several estimates and pick the lowest bid. When a paint job is finished, one assumes everything is alright. Keep this in mind; the quicker the contractor finishes a competitively bid project, the higher his profit. So, one has to wonder...did he cut any corners? Were the surfaces primed properly? Did he clean them before priming? Was peeling paint removed and chipped/split wood patched? The best way to prevent a painter from skipping parts of the job is by hiring a project manager to keep an eye on the work.

Hire a Painting Project Manager

An experienced project manager, with house painting experience, maximizes your repainting dollars. The project manager checks that your painter is licensed and insured, reviews the job scope, and ensures the building gets what it needs. Further, a project manager makes sure the correct materials and proper coats of paint and primer are applied. The project manager can be on-site as much or as little as you want to fit different budgets. Additionally, a project manager helps negotiate pricing and choose the most beautiful colors.

Paint Color Sells

The right color scheme can attract and retain residents and customers. Professionally coordinated color palettes and customized design schemes maximize your property's curb appeal and value. Additionally, ensure you get and view color samples on the building before allowing the painter to purchase and apply the paint.

QUOTE OF THE MONTH

In our country are evangelists and zealots of many different political, economic and religious persuasions whose fanatical conviction is that all thought is divinely classified into two kinds — that which is their own and that which is false and dangerous.

— Justice Robert H. Jackson (1892-1954), U.S. Supreme Court Justice

Developer Pitches 23-Story Apartment Building Near UC Berkeley

Nico Savidge, Berkeleyside, January 3, 2025

One block of University Avenue could soon be home to two of Berkeley's tallest buildings.

A Walnut Creek-based developer has submitted a proposal to build a 23-story, 240-apartment tower at 2029 University Ave., a few steps from the corner lot where another developer has pitched a 26-story building that would stand taller than the UC Berkeley Campanile.

Laconia Development plans to include 36 below-market-rate apartments in the 2029 University Ave. project, half of which would be affordable for very low-income renters and half for moderate-income tenants. The project will replace a two-story commercial building and a rear parking lot. It will also have a garage with 29 parking spaces.

City records show a pre-application for the project was submitted Dec. 10, though a full application and renderings were not available. The project was first reported by SF YIMBY.

Berkeley once had years-long battles over whether to build high-rise apartments of up to 18 stories tall. But with those fights settled and new state laws in effect that let developers unlock a "density bonus" of taller height limits if they include a share of affordable housing, there

are half a dozen projects of 20 stories or more in the city's housing pipeline.

The tallest structure downtown today, the SkyDeck building at 2150 Shattuck Ave., is just under 200 feet tall.

In addition to the two projects along the 2000 block of University Avenue, the city has approved a 25-story project planned at Shattuck Avenue and Allston Way, as well as a 26-story building at Center and Oxford streets. SF YIMBY has also reported on plans for a 20-story apartment building on Durant Way near Telegraph Avenue, and a proposal to increase the height of a project planned for the site of the shuttered California Theatre to 23 stories.

UC Berkeley, which is not bound by city zoning rules, is also moving to build a 23-story dorm tower at Bancroft Way and Fulton Street, where construction could start later this year.

It's unclear when any of the other projects might break ground, however. Private housing construction in Berkeley, which was at its highest levels in decades a few years ago, has slowed significantly since interest rates rose in 2022.



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tively owned by the cited billionaires. Most of these have dispersed ownership, so that there is no stick-out-like-a-sore-thumb billionaire to disparage. All of these companies are subject to the same rules against exploitation. If they exploit, the onus is mainly on the regulators who ineffectively enforce the rules. Bad corporate practices are not unheard of. There may be some unfair advantage attributable to size. But none of this is attributable to the presence of a single figure with a huge stake in the company. Income maldistribution is not a function of concentrated ownership of a few large corporations.

The maldistribution of income is just one of two problems attributed to the existence of a billionaire class. The other deserves more serious consideration. In his farewell speech, Joe Biden warned of an emerging oligarchy of wealthy individuals gaining and exercising too much political power to pursue their own interest at the expense of the broader society. This is an impactful consequence of billionaire involvement in the political process.

Companies owned by first buddy Elon Musk have intrinsic ties to the government. Tesla is benefitted by tax credits on electric vehicles and Space X has multi-billion-dollar dealings with the federal government. AI and social media are out-of-control and even the companies which are subject to regulation acknowledge the need for more and better rules. For years, Silicon Valley tried to stay out of Washington. But the heads of the affected companies soon realized they had little choice but to deal with the federal government. Of course, they have every right to participate in the process which is determinative of their future in a major way.

This leaves the question of controls on mega-rich individuals qua individuals. Clearly, Elon Musk has vastly more political influence than your average citizen. His contributions to the Trump campaign exceeded a half-billion dollars. His issues are both related and unrelated to his business interests. How would you limit such influence?

The controversial Supreme Court decision in *Citizens United* pretty much stifles any limit on political contributions. The court equated these contributions to free speech guaranteed by the first amendment. If you want to limit political speech, you'll have to change the Court or change the Constitution.

Can extreme wealth be taxed away? In theory, it probably can. Tax rates over 90% in the 1950s was arguably an attempt to do so. The inheritance tax is a largely unsuccessful effort to control dynastic wealth, but it is a precedent.

Anyone can live as comfortably as decency allows with a billion dollars. Assuming you want to limit everyone to one billion dollars in net worth, how would you do that? First, who is everyone? Is it a billion dollars per person, per household, per adult? Does a couple with four kids get to keep six billion? What happens in a divorce?

Confiscation is undoable. It also has negative consequences. What happens to Tesla stock when Musk has to sell millions of shares all at once to pay his wealth tax? Do billionaires like Taylor Swift work free for the rest of their lives because they already have a billion dollars? What are the consequences of taking large amounts of capital from the money markets and giving it to the government? Is more federal spending better than the Gates Foundation?

Life is unfair in many ways. Genetics account for much of the differential success of individuals. Do we put a special tax on gifted athletes or beautiful people with acting chops? Or on a guy with a better idea which is appreciated and rewarded by millions in the marketplace?

There is a good argument for progressive taxation; maybe more so for income in the mega-bucks range. There is an even better argument for an estate tax. Many people are fine with huge wealth going to a Bill Gates who created something of great value out of nothing. On the other hand, a life of immense comfort and privilege for the offspring of billionaires is offensive.

Billionaires may be an unfortunate result of our economic system, but they are not inherently evil. Besides their personal rewards, they clearly create huge wealth and well-being for others. We can tax them for a chunk of change without demonizing them. They create the future in ways a government never could. Be suspicious but be grateful as well.

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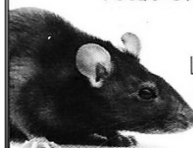
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