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The Advocate for Berkeley's Rental Housing Providers

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Tenant Fraud is Smarter than Ever – Are You?

Dan Lieberman, President, BPOA

Fraud in rental housing has surged in recent years, with applicants and even existing residents leveraging AI-generated documents and other deceptive tactics. Many owners and operators of rental housing continue to use the old methods to suss out fraud (do the pay stubs look real?, is the employer phone number on the application really their boss?, etc.). While these methods help, they are no match for today's professional tenant that wants to live in your unit rent free, for an extended period of time.

With the post-Covid rise in tenant protections, and the growth of the regulatory/tenant attorney industrial complex, the cost of making a mistake has grown substantially. It used to be that placing a bad tenant would cost you several months of lost rent to get them out, as you worked your way through the eviction process.

But now, you can't even start an eviction until the tenant is at least one month in arrears that is equal to the HUD fair market rent. Not to mention that the courts are backed up and with free eviction defense lawyers available for tenants, the case will likely be drawn out until you agree to pay the tenant several months' rent to leave. That's on top of the lost rent you've already endured (plus you will need to give them a neutral reference and the court will expunge any history of the eviction action from their record).

The availability of artificial intelligence (AI), photo editing software, high quality digital cameras, and personal scanning devices make it easy for fraudsters to falsify documents in their favor. Fake pay stubs, credit scores, social security numbers, and bank account statements are easily available online to help applicants qualify for apartments they otherwise wouldn't be able to.

Despite all this, you must move forward and rent your unit.

Anecdotal evidence suggests that between 5% and 8% of applications involve some sort of fraud. To combat this, a number of fraud prevention tools have emerged. Operators are implementing these tools in addition to their standard resident screening, so it is important to think about what tools warrant the additional expense to you.

While there are many companies out there, the main areas to look at include:

- **ID Verification checks:** Making sure prospects are who they say they are and that their official ID is real. The software will check IDs against government databases.

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WEBINAR CALENDAR

New Laws Affecting Your Rental Property
Thursday, March 6, 3:00 PM

*Mastering Leasing:
Smart Strategies with Sam Sorokin*
Wednesday, March 12, 3:00 PM

New Photo Doc Requirements: Phase 1
Wednesday, March 19, 3:00 PM & Friday, March 21, 5:00 PM

Asset Protection: Unforeseen Liabilities & Hidden Traps
Thursday, April 3, 3:00 PM

Mold, Mildew & Mayhem: Protecting Your Property
Tuesday, April 8, 3:00 PM

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Editorial

Hey, DOGE, Look Over Here

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

I have been using the Berkeley Transfer Station since it replaced the landfill on the Bay that used to take all of Berkeley's waste. That area is now Cesar Chavez Park. If you use the transfer station, you know — or you should know — that it requires that all loads be covered and secure. The requirement is reasonable as it prevents spillage of debris onto Berkeley's streets. Stuff blowing about is unsightly and could be dangerous.

But there are rules and there are rules. I took a load of organic debris to the transfer station. It was covered and secure. I had placed weighted hard boards atop the garden cuttings. The stuff in the truck wasn't going anywhere. Driving to the transfer station confirmed this. Nothing blew out of the truck. My load was covered and secure; it was not tarped and tied to my truck.

The attendant at the entry booth was unimpressed. He wanted to charge me an extra \$15 for a noncompliant load. I balked. He told me I could take my load home or talk to management. I talked to management but got little sympathy. I was given a single sheet with elaborate instructions on how to secure a load. I thought this was Berkeley policy but it turned out to be a reprint from a similar service from a county in Washington. It was informative, not regulatory.

I read the sign at the entry booth to say covered and secure, not tarped and tied down. Would a load of bricks have to be tarped and connected to the vehicle? In that case, the only possibility negative outcome would be the tarp blowing off and covering the windshield of a following automobile.

I insist I was in compliance with the spirit if not the letter of the law. I was not about to pay the \$15 surcharge. My load was in no danger of dispersal. I think the proper response from the attendant would have been to point out that there is a better way to secure a load, let me through without a surcharge, and give me a face-saving lecture on how-do-it-better-next-time.

Instead, they insisted my load was **prone** to blowing away and so they sent me back on to the streets of the City of Berkeley with debris they believed to be vulnerable to soiling the City. So much for the spirit of the law.

A week later, the load is still in my truck. I don't know what I will do with it. I continue plying the streets of Berkeley going about my business. The garden debris remains secure. I delivered this stuff to the City and offered to pay them money to take it off my hands. Instead, I will find a way to get rid of it with no extra income to the City. Maybe I will fill my neighbor's green can until it is gone. In that case, the City will haul it away for me and get no extra income for doing so.

Rules can be tricky and who gets to interpret them matters. I have been paying taxes to the City of Berkeley for over sixty years. I am entitled to reasonable access to the Berkeley transfer station. This isn't the worst story of bureaucratic excess, but it is typical. Almost makes you root for Elon Musk and DOGE.

❖ 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.

The California Legislature is in full swing, kicking off at a rapid pace with newly proposed rental housing laws. While a lot remains to be seen, here is a sneak peek of what might be on deck for rental housing in California.

- **AB 21 (DeMaio)** *Taxpayer Protection Act of 2025* — would declare the intent of the Legislature to enact a constitutional amendment to limit the ability of state and local governments to raise taxes, restore a 2/3 vote requirement on local special tax increases, impose voter approval requirements on specific categories of new taxes, and regulate the titles on state and local ballot measure relating to tax increases.
- **AB 282 (Pellerin)** *Discrimination: Housing: Source of Income* — a proposal that would not only enact Berkeley's version of no discrimination based on a tenant receiving a subsidized housing voucher, but it would also implement "prioritization of applicants for tenancy who qualify for or receive rental assistance."
- **AB 311 (McKinnor)** *Dwelling Units: Persons and Risk of Homelessness* — would allow a tenant the ability to temporarily permit the occupancy of their unit by a person who is at risk of homelessness and one or more common household pets owned by that person. This would be despite any terms of the lease or rental agreement that may prohibit this type of occupancy.
- **AB 414 (Pellerin)** *Residential Tenancies: Return of Security* — Would require a landlord to provide the tenant a copy of the itemized statement and return the security's remaining portion in the manner the security was received or requested by the tenant for the return of the security's remaining portion.
- **AB 863 (Katra)** *Residential Rental Properties: Language Requirements* — would require any notices to terminate or legal complaints be given in the language in which the lease terms were negotiated or the in the language in which the owner has reason to believe is the tenant's primary language.
- **SB 9 (Arreguin)** *ADU Owner-Occupancy Requirement* — prohibits a local jurisdiction from imposing an owner-occupant requirement for the proposed development of an Accessory Dwelling Unit.
- **SB 52 (Perez)** *Housing Rental Rates and Algorithmic Devices* — would make it unlawful for a landlord to use an algorithmic device to set rental rates or occupancy levels for residential rental units.
- **SB 381 (Wahab)** *Residential Rental Property: Fees* — would prohibit a landlord from charging certain fees including a convenience fee for rental payments or a fee for a tenant to have a household pet. It would also prohibit a landlord from charging a late fee of more than 2% of the monthly rental rate and would not prohibit a charge until the rent is 7 days late.

Additionally, the California Rental Housing Association — our state advocacy organization — is sponsoring an anti-squatter bill this year. **SB 448 (Umbert)** would define a squatter as somebody who unlawfully enters and remains in a residential property and, upon request, refuses to leave or falsely claims a legal right of possession. This would assist local law enforcement in their ability to more easily and effectively remove a squatter in a property.

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 BHRHC 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.



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Alex N. Gecan, *Berkeleyside*, January 31, 2025

As both landlord and tenant, Berkeley is disorganized to the point it may be losing money and has already lost track of a building, according to a new report from City Auditor Jenny Wong. She has recommended a series of policy and practice reforms, many of them echoes of a 2009 audit that turned up some of the exact same problems with how the city leases out buildings it owns and rents space in buildings it doesn't.

Most notably, Berkeley "lacks a clear approach to lease management, a relevant policy to guide leasing and licensing decisions and a complete inventory of leases and license," she wrote in the executive summary of her Jan. 24 report, which is a follow-up to the 2009 audit. The city has 57 lease or license agreements with "outside entities" who use city property and buildings, she said.

The city is likely leaving money on the table as a result of the disorganization, but how much remains unclear. The city has more than 20 leases in "holdover" — that is to say, running on autopilot on the last agreed-upon terms after the leases expire — several of which ended over a decade ago, according to Wong.

"With so many leases in holdover, the city may miss out on opportunities to adjust rent amounts to better cover its costs, or match market rate," Wong wrote. "This could result in financial loss if lease agreements and terms including rental amount are not renegotiated." And conversely, in cases where the city is the tenant in an expired lease, landlords could simply ask the city to leave, she said.

Inconsistencies in what the city charges for rent

Wong's review turned up a number of inconsistencies, among them that some nonprofits pay below-market-rate rents while others do not, as "there is no standard process for determining when to offer rent below market rate," she wrote. Berkeley does not actively keep track of "whether tenants are nonprofit organizations or commercial entities," she told *Berkeleyside* in an email. Among other things, Wong recommended that the Public Works Department start tracking information like fluctuations in the cost of living and rental rates and set up a lease inventory to track information like lease terms and lengths.

Wong drew a contrast between two buildings, one that the city owns but leases to an outside entity, the other that Berkeley rents space in from an outside entity. Berkeley leases out a city-owned courthouse building to the state judiciary for less than \$1 a year, but pays the

Berkeley Unified School District \$1,200 for each day that the City Council, Zoning Adjustment Board, Rent Stabilization Board or any other city commission meets at the district's building at 1231 Addison Street. "Without keeping some detailed financial information in one central location, the city cannot assess the costs and benefits of renting to or from other entities," Wong wrote.

Wong also warned that "the city could lose track of its property," which, in fact, has already happened, at least once, "with a building at 1890 Alcatraz Avenue which the city was at one point unaware that it owned," she wrote.

The West Oakland Health Council began renting out the building in 1989 to run an adult daycare program, said Seung Lee, a spokesperson for the city. "It's hard to pinpoint exactly when the city 'lost track,' but if a date has to be given, it would be 2010, when the original lease with WOHC went into holdover," Lee said in an email.

"Three key factors converged in 2010 which severely impacted the operations of the city's real property team at the time: the ongoing economic downturn from the 2008 financial crisis which impacted the city greatly; the incomplete responses to the 2009 lease audit; and the beginning of the closures of all California redevelopment agencies," Lee said. "The real property team's focus from 2010 onwards was the selling off of RDA property. By 2013, all members of the real property team resigned or were reassigned."

Around the time that the city needed to find a new home for its adult mental health clinic in 2017 was when the building popped back onto the city's radar, Lee said. The city terminated its lease with the West Oakland Health Council and moved its own clinic into the building. Most recently, 1890 Alcatraz has become the proposed site for a new Berkeley African American Holistic Resource Center, although structural problems derailed the building's planned restoration. The current plan is to build an entirely new building on the parcel.

Recommendations made in earlier audits

Wong set out to review whether the city had made good on recommendations from another, 16-year-old auditor's report, which reported similar findings — that city staff were ignoring leasing rules and regulations, that there was no central inventory of city leasing information and that, "lease oversight remained largely decentralized despite steps taken to centralize this function."

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Natalie Orenstein, *Oaklandside*, February 14, 2025

New Buildings Are Being Seized by Lenders During a Downturn in Construction, Rents, and Tenancy.

The certified letter came in a nondescript envelope. Over 70 copies were mailed to the building, but each was addressed to the same recipient:

Resident of property subject to foreclosure sale.

That's how Pawel Dlugosz and his neighbors learned in September that a bank had seized their building from their landlord.

The letter didn't explain much, but the bit of information it included caused some panic.

"Foreclosure process has begun on this property, which may affect your right to continue to live in this property," it said.

A foreclosure is a legal process in which a lender, usually a bank, takes a property from the owner because the owner has failed to make payments on their mortgage — the loan the bank gave the owner to buy the property.

Foreclosures are actually pretty common and rarely make the news. More than 100 properties — including single-family homes, apartment buildings, offices, and even land — are foreclosed on each month in Alameda County. But for some of the residents living at Ora Oakland on Alice Street, the foreclosure notices came as a shock.

That's because Ora, which opened under the name Halcyon in 2019, was one of the shiny towers and mid-rise apartment buildings that shot up in Oakland in the late 2010s. This was one of Oakland's most impressive building booms, with developers grabbing relatively cheap land in hopes of capitalizing on an influx of high-income renters drawn to jobs in San Francisco and the region. Rents and house prices were sky-high and the sleek new buildings filled up fairly quickly.

But after Vaughn Management bought the building in 2021, there were signs that they "couldn't get as much money out of it as they wanted," said Dlugosz. He and his wife ended up living in three different apartments in that building over a few years, trading up for bigger space and better deals. Each move, they'd been pummeled with incentives by the landlord — one month off rent, an extra \$1,000 credit, a low security deposit.

Vaughn Management Vice President Carlos Hernandez did not respond to emails and a phone call requesting interviews in late 2024 and early 2025.

But he emailed tenants in October confirming the foreclosure. He assured them that their leases would remain intact with the change in ownership.

"We are very sad to lose such an amazing community," he wrote.

Other new multifamily buildings in Oakland are being sold for pennies on the dollar, according to research by CBRE Group...

Vaughn is not alone. A handful of other newer, large apartment buildings in Oakland have also been foreclosed on over the past year or so. Others have sold at steep discounts, indicating clear signs of distress.

Lender Brookfield Property Partners seized The Logan at 5110 Telegraph Ave. from RAD Urban through a "deed in lieu of foreclosure" process earlier this year. The 204-unit Temescal apartment build-

ing, which opened in 2020, also houses Whole Foods.

Lender CIM Group acquired Emeryville's Bayview building through the same process a few months earlier.

In the fall of 2023, lender CPIF California grabbed the undeveloped land at 500 Kirkham St. in West Oakland. Developer Panoramic Interests had planned a massive 1,000-unit apartment complex there. Nobody bid on the property at an auction.

Other new multifamily buildings in Oakland are being sold for pennies on the dollar, according to research by CBRE Group, including 17th and Broadway and 19th and Harrison, both built in 2019.

A rush to build in Oakland — then a messy retreat

About 10 years ago, developers began rushing to Oakland "like lemmings," said Jeffrey Henderson, vice president at CBRE. They were wooed by the relatively cheap land and newfound demand for high-end apartments.

Then the pandemic hit, major companies went remote or left the Bay Area, and workers moved away. While demand dropped, construction costs and interest rates soared.

"This pipeline of new supply is definitely coming to an end

continued on next page

in Oakland, as well as the entire Bay Area,” Henderson said. “This is a scenario playing out in a lot of tech markets across the US.”

Over the past year, there was a 32% decline in new construction in Oakland, according to CBRE. The most recent figures for multifamily buildings — reflecting the third quarter of 2024 — show that rents in the Oakland-Berkeley area were down 3.2% from the previous year, a larger drop than anywhere else in the Bay Area. The vacancy rate, at 7.7%, also grew and is higher than anywhere else.

Local developers gripe about these conditions and say their work has ground to a halt. At an industry conference last year, several reported that the negative narrative about Oakland in the news has also scared away their investors.

CBRE’s data shows that investment in new multifamily buildings in the East Bay is down significantly from 2021 and 2022.

“When you can buy a building built in 2019 for a greater than 50% discount, why would I go through the red tape of California development?” Henderson said.

Given these conditions, Henderson said the foreclosures of downtown towers are not surprising. With relatively low rents — though they might not seem like it to the tenants paying them — and relatively high vacancy, building owners may be struggling to stay afloat and defaulting on loans.

While Dlugosz was reassured that he could stay at Ora Oakland, he chose not to. His family moved to Walnut Creek and plans to relocate to New York City at the end of the year. It wasn’t an easy decision.

“We are in the nicest apartment of our lives,” said Dlugosz, speaking with The Oaklandsider after receiving the letter announcing the foreclosure last fall. “There’s a patio that connects to the rooftop terrace — it’s essentially a penthouse apartment.”

When he and his wife looked at the two-bedroom, two-bath unit in 2020, it was out of their budget, but with the rent drops and concessions later offered by the landlord, they ended up moving in later on for \$3,000, which they could pay.

(However, Dlugosz’s wife “gave up her \$800 studio so we could live together — that’s the definition of true love in the Bay Area,” he quipped.)

But the family’s experience downtown was one of constant chaos. They witnessed and experienced repeated

break-ins in their building, and encountered people in various stages of crisis daily who weren’t receiving help. They found their elected leaders unresponsive to safety concerns. When Dlugosz and his wife had a baby, it began to feel untenable to stay. And when the city began slashing essential services to patch a gaping deficit, the prospect that conditions could improve diminished.

“With a foreclosure like this, it’s another thing that gets added on your plate,” Dlugosz said. “Where’s the end to this?”

The departing building management was understaffed, but receptive to tenants’ concerns, said Dlugosz, and he worried that the new owners and managers might not have renters’ best interests at heart. Before moving to Ora, he broke a lease at an apartment building in Adams Point over property management issues so he was wary of going through that nightmare again.

“The question is, will the new ones maintain standards or are we just a bargain building and they’ll want to squeeze as much as possible out of us?” he said.

Henderson of CBRE said some companies are “making business plans based on Oakland’s rebound or resurgence” — getting in while properties are cheap and expecting the market will turn around in three to five years. Three Step Properties and The Martin Group both recently bought large new buildings downtown, he said.

From a market standpoint, Henderson’s group is “very hopeful and optimistic.” San Francisco is bouncing back quicker, and he envisions something like a repeat of the pattern of the 2010s happening in the coming years — companies returning to the city, and workers there choosing to live in Oakland instead.

“If I only have to work [in person] two to three days a week...wouldn’t I be better off with a luxury amenity package and a brand new building with parking, with Lake Merritt, with great transit on BART?” Henderson said. “I think for the value renter, those are still big considerations.”

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Tiffany Van Buren, BPOA Deputy Director

A Condensed Guide to Handling Mold Reports in Your Rental Property

Mold reports can be alarming, both for rental housing providers and renters. However, addressing them with a clear and measured approach can prevent unnecessary expenses and legal issues. A well-informed response ensures the problem is handled efficiently, reducing long-term damage and keeping your property safe. Here's a concise, but still detailed, guide on handling tenant mold complaints effectively.

1. Stay Calm and Gather Information

When a tenant reports mold, ask key questions before taking action:

- Where is the mold located? In one spot or multiple rooms?
- How long has it been there? A recent issue or long-standing problem?
- Is there an active leak or moisture source? Leaky pipes, roof damage, or condensation buildup?
- Have they tried cleaning it? If so, did it return quickly?

Understanding the situation helps determine if the issue is minor or requires further investigation. The key is to assess whether the mold is a result of temporary condensation or an ongoing structural moisture problem.

2. Inspect the Area

Personally inspect the affected space to confirm the presence of mold and identify any moisture sources. Look for:

- **Visible mold** on walls, ceilings, or surfaces — black, green, or white discoloration.
- **Condensation buildup** on windows, particularly in colder months.
- **Plumbing leaks or roof leaks** causing dampness.
- **Poor ventilation**, especially in bathrooms and kitchens, which can lead to recurring moisture issues.

Take photos for documentation and compare the severity of the issue with past incidents. If the mold is minor (less than 10 square feet, a 3x3 foot area), you may be able to address it yourself. Larger or persistent mold problems may indicate hidden moisture issues requiring professional assessment.

3. Fix the Moisture Problem First

Mold growth is a symptom of excess moisture. Simply scrubbing away mold without fixing the underlying issue guarantees it will return. Common moisture sources include:

- **Leaky plumbing** under sinks, in bathrooms, or near water heaters.

- **Roof leaks or poorly sealed windows** leading to water intrusion.
- **Condensation from poor insulation** or unvented appliances.
- **Inadequate ventilation** in bathrooms, kitchens, or laundry rooms.
- **High indoor humidity** (over 60%), often from drying clothes indoors or improper HVAC maintenance.

Before attempting to remove mold, ensure leaks are repaired, ventilation is improved, and indoor humidity is controlled. Using a dehumidifier and ensuring air circulation can be simple, long-term solutions.

4. Cleaning Small Areas of Mold

For small mold patches, follow these steps:

- **Wear protective gear:** Gloves, goggles, and an N95 mask.
- **Choose the proper cleaning solution:**
- **White vinegar** (kills about 80% of mold species and penetrates porous surfaces).
- **Hydrogen peroxide** (effective for killing mold on wood, fabric, and drywall).
- **Baking soda paste** (a non-toxic, mild abrasive to scrub the mold away).
- **Avoid using bleach**, which only removes mold on the surface but does not kill the spores in porous materials.
- Let the cleaning solution sit for at least 10 minutes before scrubbing.
- Dry the area completely to prevent regrowth.

If the mold has penetrated drywall or other porous surfaces, **removal and replacement of the material may be necessary.**

5. When to Call a Professional

Professional mold remediation is recommended if:

- **Mold covers more than 10 square feet** or is spreading rapidly.
- **It's inside HVAC systems or ductwork**, where spores can circulate throughout the unit.
- **There's significant water damage** from flooding, roof leaks, or plumbing issues.
- **Mold keeps returning** despite cleaning and moisture control efforts.

A professional assessment may be necessary to pinpoint hidden moisture sources and determine whether structural repairs are required.

continued on next page

SB 448, the Trespassing Response and Remedies Act

California Rental Housing Association

New Bill Would Protect Property Owners from Unlawful Trespassers

The California Rental Housing Association (CalRHA) is proud to sponsor Senate Bill 448 [Umberg], a newly introduced bill that will address the rising problem of trespassers unlawfully occupying properties across the state.

“Unauthorized trespassers, or squatters, are a growing problem threatening property owners and renters in our state. SB 448 offers a clearly defined and straightforward framework for property owners to reclaim their properties and protect our neighborhoods,” said Adam Pearce, President, CalRHA. “We’ve seen first-hand how illegal trespassers take advantage of victims of disasters and occupy vacant properties. We simply cannot allow that to happen in Southern California’s fire-stricken neighborhoods. We’ve worked closely with Senator Umberg to develop a solution that will protect these property owners as they begin to rebuild.”

These unauthorized occupants threaten property owners’ rights and pose significant safety risks and financial burdens. Also referred to as the Trespassing Response and Remedies Act, SB 448 balances the need for housing providers to reclaim their rental properties quickly and efficiently while upholding vital renter protections.

“At a time when the supply of rental housing is extremely low, I’m proud to be authoring a measure that delivers a comprehensive process for Californians, local governments, and law enforcement to tackle the issue of illegal squatting,” added Senator Umberg (D — Santa Ana). “SB 448 will help ensure that quality, affordable housing remains accessible to lawful renters, and that our communities are protected from the dangers and disruptions caused by illegal trespassing.”

Unlawful trespassing has become a nationwide problem, with states such as New York, Pennsylvania, and Georgia taking decisive action in 2024 by passing laws to tackle this growing issue.

QUOTE OF THE MONTH

If you want to make your dreams to come true, the first thing you have to do is wake up.

— J.M. Power

from previous page

The Nuts & Bolts

6. Mold Testing is Usually Unnecessary

The California Department of Public Health (CDPH) states that testing is unnecessary if mold is visible or there’s a musty odor. Mold testing only identifies mold types and levels but does not help with remediation. Instead, focus on moisture control and removal.

When might mold testing be necessary?

- If required for insurance claims or legal disputes.
- If mold is suspected but not visible, such as behind walls or under flooring.
- If a **persistent musty odor remains** despite cleanup efforts.

7. Educating Tenants on Prevention

Prevention is key to avoiding mold issues. Educate tenants on:

- **Using bathroom and kitchen exhaust fans** to minimize moisture.
- **Keeping furniture at least 4 inches from exterior walls** to allow airflow.

- **Reporting leaks or moisture problems immediately** to prevent damage.
- **Wiping down condensation** from windows, walls, and other surfaces regularly.
- **Running dehumidifiers in humid months** to maintain indoor humidity below 60%.

Providing residents with basic mold prevention guidance at move-in and reinforcing these habits throughout the lease term can significantly reduce mold-related maintenance requests.

Final Thoughts

By taking a proactive approach, landlords can prevent mold-related disputes, protect their properties, and maintain a healthier living environment for tenants. If mold concerns arise, acting quickly, fixing moisture issues, and following best practices for cleaning will keep both tenants and properties protected.

For comprehensive guidance, visit our website ? Content Library ? *Handling Mold Reports in Your Rental Property: A Step-by-Step Guide*.



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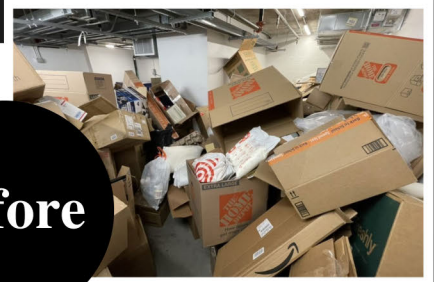
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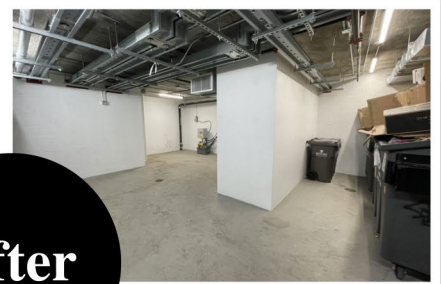
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Corrections to BPOA Errors in Previous Class Action Lawsuit Article

Lance Montauk

The February BPOA Monthly featured an article about Measure MM legal developments in a Class Action Lawsuit against the Rent Board filed by Plaintiff Alan Wofsy. The article, signed by me, regrettably contained misrepresentations and inaccuracies. These were due to changes made by BPOA staff to the text I submitted, about which I was not informed prior to publication. Below are corrections to some of the BPOA misinformation contained in that previous article:

1. The February article falsely stated I filed a Court lawsuit for the group I represent; we actually originally filed a Claim with the City of Berkeley, and recently we filed with the Wofsy Court a Request for Judicial Notice of our Claim.
2. The February article falsely stated “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.” Actually there is no guarantee fee recuperation would occur; Wofsy has not specifically requested this for other landlords in his lawsuit, though my group has requested it in our Claim.
3. The February article falsely labels our group as “atypical ‘mom-and-pop’ landlords”; we are actually fairly typical of one type of small landlords in Berkeley, which is why it was so easy for us to coalesce as a group rather than as a single landlord.

4. The February article falsely states: “When the lawsuit is resolved...all landlords who paid an MM fee can expect to be contacted by the Joint Class Action Administrator; actually, the Administrator already sent postcards out this week to all those on its list of potential Class Members.
5. The February article contains a statement that Wofsy’s legal team “deserves...a hand with the attorney’s fees” and continues “We hope that if this law has had an impact on you, then you will be willing to donate to ‘Wofsy’s legal fund’”. This statement was added to the article without my knowledge and departed significantly from the text I originally submitted, which is below in italics:

As is routine in Joint Class Action lawsuits, the Court will adopt a plan (Class Action Notice Proposed Plan) which will employ an outside firm to contact the approximately 3,315 landlords which the Rent Board states have already paid these registration fees. At around \$200/unit, that’s at least \$600,000 in yearly registration fees, i.e. over \$2,500,000 since the fee payments commenced. The Class Action attorney can receive up to 1/3 of any recovery in attorney’s fees, to be awarded at the Court’s discretion... Plaintiff Wofsy and his attorney have devoted considerable time and risked substantial financial resources in this effort, including up-front payment of over \$20,000 to EPIQ to cover their administrative costs. Wofsy and his lawyers deserve not just our thanks, but also significant compensation for their effort(s).



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Argentina Scrapped Its Rent Controls

Ryan Dubé, *The Wall Street Journal*, September 29, 2024

Now the Housing Market is Thriving

BUENOS AIRES—For years, Argentina imposed one of the world's strictest rent-control laws. It was meant to keep homes such as the stately belle époque apartments of Buenos Aires affordable, but instead, officials here say, rents soared.

Now, the country's new president, Javier Milei, has scrapped the rental law, along with most government price controls, in a fiscal experiment that he is conducting to revive South America's second-biggest economy.

The result: The Argentine capital is undergoing a rental-market boom. Landlords are rushing to put their properties back on the market, with Buenos Aires rental supplies increasing by over 170%. While rents are still up in nominal terms, many renters are getting better deals than ever, with a 40% decline in the real price of rental properties when adjusted for inflation since last October, said Federico González Rouco, an economist at Buenos Aires-based Empiria Consultores.

Milei's move to undo rent-control regulations has resulted in one of the clearest-cut victories for what he calls "economic shock therapy." He is methodically taking apart a system of price controls, closing government agencies and lifting trade restrictions built up over eight decades of socialist and military rule in an effort that has upended the lives of many Argentines.

In Buenos Aires—a city dubbed the Paris of the South for its broad avenues and café culture—many apartments long sat empty, with landlords preferring to keep them vacant, or lease them as vacation rentals, rather than comply with the government's rent law.

In 2022, there were some 200,000 empty properties in Buenos Aires, up 45% from 2018, according to a report by Cedesu, a Buenos Aires-based policy group that focuses on urban development. Finding an affordable apartment under the rent-control law was difficult.

Aldana Oliver spent about 18 months looking for a place to rent when she left home for the city of La Plata to study dentistry.

"There were few places to rent and those available were very expensive," said Oliver. After rent control was scrapped, she quickly found a studio apartment for about \$200 a month. "I found something really nice. And I got a good price," she said.

Many new contracts—now permitted in dollars as well as pesos—stipulate rent increases every three months, real-estate agents and tenants say. That has made housing costs unaffordable for some people already struggling to pay higher food and utility prices, said Gervasio Muñoz, who represents an association of tenants in Buenos Aires.

Romina Misenta, a 40-year-old teacher, said rent on her small apartment increased almost threefold when her previous contract ended.

"My situation has worsened a lot," she said. "I would be paying a lot less in rent if the previous law was still in effect."

Still, rental prices appear to be stabilizing. Monthly price increases are now at their lowest rate since 2021 as more apartments become available, according to Zonaprop, Argentina's largest real-estate website.

And he ditched the restrictions he said made renting an apartment an odyssey that hurt those it was trying to help.

Critics of Milei say he is deepening the economic pain of the working class. And while he remains popular, some polls show his support eroding. In August, he had a 45% approval rating, down from nearly 60% earlier this year, according to pollster Giacobbe Consultores.

"By freeing up prices, it's very difficult for all these people, including us, to get to the end of the month," said Amalia Roggero, whose soup kitchen in La Plata has experienced a surge in people seeking food.

Milei, a libertarian economist, long warned Argentines that his free-market changes would initially make conditions worse before they got better as he slashed public spending to tame inflation. He said it was necessary to unravel tight economic controls he inherited from the previous, left-wing Peronist government, which implemented price controls on some 50,000 products from food to clothing as part of its Fair Prices program.

At least for now, the housing market is thriving. Opponents of price controls say Argentina is a cautionary lesson for officials from the U.S. to Europe who have looked to curb surging housing costs with rent controls.

In Argentina, the national rental law approved in 2020 during the left-wing government of President Alberto Fernández required a minimum three-year contract. The rents had to be paid in pesos, the country's volatile currency, which lost about 90% of its value against the

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- **Document verification** using AI technology to analyze documents like pay stubs and bank statements to determine whether they are genuine and whether they have been altered. In many cases, this needs to be tied into the income verification process to verify deposits show up in the applicant's bank account on a regular basis.
- **Income verification:** Uses data from the applicant's bank account to assess their true income and whether they can afford the unit for which they are applying. While bank statements can be easily forged, the contents of bank accounts cannot. Prospects grant the software supplier access to information that comes directly from their bank account.



My goal in writing this message is to raise your awareness of this growing issue. Fraud in rental housing is becoming increasingly sophisticated. You need to fight back with a full arsenal of tools which include a thorough verification process including tech-driven solutions, meeting applicants in person, and being alert to any stories that just don't quite sound right.

Remember, there is no single tool that stops all fraud. You must take a holistic approach, making the application process easy for honest applicants, but being on guard for potential fraud. And with gig work and other non-traditional income sources becoming more common, paired with the fact that it's easier ability to create authentic-looking documents, using these tools as part of your screening process only makes prudent sense.

Join Us for Quarterly Social Mixers with Fellow Members

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

DATE	TOPIC
Thursday, March 6, 3:00 PM	Webinar: New Laws Affecting Your Rental Property
Wednesday, March 12, 3:00 PM	Webinar: Mastering Leasing: Smart Strategies with Sam Sorokin
Wednesday, March 19, 3:00 PM & Friday, March 21, 5:00 PM	Webinar: New Photo Documentation Requirements: Phase 1
Thursday, April 3, 3:00 PM	Webinar: Asset Protection: Unforeseen Liabilities & Hidden Traps
Tuesday, April 8, 3:00 PM	Webinar: Mold, Mildew & Mayhem: Protecting Your Property

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!

Daniel Bornstein

Solving Simple Problems Can Create Billion-Dollar Ideas. They Can Also Stir Up Legal Quandaries.

Safer Neighborhoods, Together?

This is the first tagline you see when visiting Ring's home page. Certainly, there is some value in installing these types of smart doorbells, cameras, alarms, lighting devices, and other accessories. Tenants and landlords get peace of mind knowing that the building is safer, and this can be especially appealing to young renters who are constantly interacting with their smartphones.

We couldn't agree more. In a webinar on handling crime, violence, and domestic flare-ups in rental units, I stressed the importance of documenting evidence of any manner of nefarious activity, including the theft of packages. In these types of egregious acts, the tenant should be served a 3-day notice to quit with no opportunity to "cure" or correct the transgression. With Ring and other products storing imagery for months, the tenant or their attorney is hard-pressed to dispute that the theft occurred.

We must ascertain just how watchful and attuned to conversations landlords can be. Under California law, tenants have a reasonable expectation of privacy and this needs to be respected. In certain shared common areas such as a lobby, gym, pool area, hallways, storage areas, and the like, video surveillance can be installed. We have, however, urged restraint and discretion in the installation of devices that capture video. For example, although legally permissible, we have recommended that shared kitchen areas should be off-limits. Where to draw the line is always a question best approached with an attorney.

Certainly, cameras can be installed outside the building at entryways and exits. Where it gets more concerning is when cameras begin to monitor a tenant's private life and become too invasive. There is a famous quote by a judge who said that someone's liberty to swing their fist ends, where another person's nose begins. To which we can add that the landlord's right to surveil their property ends, where the tenant's rental unit begins. For example, if a surveillance camera angle allows a full view of the

apartment's interior when the door opens, it violates the tenant's right to privacy.

Some of the Best Practices

Whenever these newfangled devices are installed in rental properties, their location must be carefully thought out. Their video feed cannot be at an angle that peeks into a unit, and certainly not into bathroom or shower facilities. If the landlord catches a tenant in an embarrassing moment, civil and even criminal liability awaits. There should be prominent signage alerting anyone in the watchful eye

of the surveillance device that activities are being recorded, but we hasten to say that posting signs will not excuse unlawful video recording.

As for audio recordings, Ring users can disable this feature, and this is a surefire way to avoid liability. Under California's "All parties consent Statute" discussed earlier, all parties must consent, and this is unwieldy in a rental housing environment with people coming and going, as opposed to consenting to a phone call being recorded.

Whoever the "wizard behind the curtain," whether it is the landlord or the tenant who is monitoring the acoustics,

everyone subject to having their conversations overheard and preserved should be informed as such. California's highest court weighed in on this in *Kearney vs. Salomon Smith Barney*. An ironclad lease can prohibit tenants from installing surveillance equipment of any kind, yet a recurring theme in our practice is tenants using stale, outdated leases that do not anticipate all contingencies in the rental relationship or account for changes in the law.

The landlord could allow tenants to install Ring and similar devices at their discretion, but this permission should not come without carefully prescribed guidelines. The chief concern is whether the devices will infringe on the privacy of other tenants. For instance, cameras cannot face the entrances to another residence, their parking spots, or yards. All equipment a tenant chooses to install with the landlord's blessing must be specific to their own living quarters.

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continued on page 16

Berkeley Lost a Building, Maybe

In her 2025 report Wong emphasized that she had not come down on one side or another as to whether Berkeley's lease management should be centralized, but that there were "some risks" with the haphazard way in which the city goes about leasing now.

It was even further back, in 2002, that the City Council voted to centralize lease management, creating a "real property administrator" position to take charge of leasing, acquiring and offloading properties, real-estate appraisal and valuation, real property negotiations, contract administration, and a number of other property- and building-related responsibilities.

But, as of the 2009 audit, that plan "has not been implemented," then-City Auditor Ann-Marie Hogan wrote at the time. Even though the city had hired a real property administrator by 2009, that person was not involved in lease negotiations. Nor did the city ever hire the additional staff that administrator needed.

"There is a striking disconnect between the city manager's lease management policies and procedures and actual staff practice citywide," Hogan wrote at the time.

The city hasn't had a real property administrator since 2013, and the year after that, the position was eliminated.

Hogan wrote in 2009 that despite "making substantial progress in certain areas of lease management," the Public Works Department "is not performing many of the basic responsibilities assigned to them."

There was no centralized accounting of city leases, so Hogan said she had no way to determine how much money

the city was pulling in from leases of its own buildings or spending on leases of others. At that time, some leases were missing entirely.

Need for a lease inventory

Besides setting up a comprehensive lease inventory, and making sure city staff actually adhere to leasing and licensing policies and practices, Wong recommended the city once again try to tackle several more of the 2009 audit's original goals.

The Public Works Department should first figure out what information would be necessary to build that database, and get everyone in the city's other departments who also manage leases to get on board with tracking it.

Once that database is built, "Public Works should make the lease inventory detail available to city staff so they can utilize the information to make informed decisions," according to the original 2009 wording. "If possible, this information should be available online in a format that allows controlled updates of information."

Wong also referenced a recommendation from 2009 that public works and finance officials should figure out if they are even able to build the sort of database they would need with the systems the city already has and, if not, consider new software or systems.

The Public Works Department and City Manager's Office said they should be able to implement Wong's recommendations within the current calendar year, according to her report. Lee said the changes should not affect or postpone other public works projects.

Argentina Scrapped Its Rent Controls

dollar on the black market during Fernández's 2019-to-2023 term. Rental prices could be increased annually but at a rate set by the central bank, which took into account inflation and worker salaries.

With Argentina's history of high and volatile inflation, property owners took steps to protect themselves from inflation that would quickly eat into the rents if they were forced to wait 12 months before raising prices.

They instead jacked up the starting price for new leases, making it far too expensive for many people to sign a new contract. That resulted in the average rent for a two-bedroom apartment in Buenos Aires costing 27 times the price of 2019, according to Zonaprop.

Some landlords tried to sell. Others listed them on short-term rental sites such as Airbnb, where tourists paid

in dollars. Landlords also focused on renting to people within their social circle, resulting in a big black market with informal rental deals that skirted government rules, economists say. Many apartment owners simply mothballed their properties.

"You'd never see rental signs in windows," said Mariano García Malbrán, the president of the chamber of real-estate companies, describing how rent controls led to shortages. "And properties that were listed with real-estate companies would be gone in a day or two."



Kinetic Energy Doorbells

Mark Tarses: Landlording with Mark

Whenever someone offers to come to a landlord association to talk about and recommend a product, he is almost always a salesman, and the products he's recommending are expensive. I am not a salesman, I have no financial interest in any of the products I recommend, and the products I recommend are cheap.

A kinetic energy doorbell is a wonderful product that every landlord should know about. (Many homeowners would also benefit by having a kinetic energy doorbell in their homes.) First, you need to understand something about kinetic energy. Simply put, **kinetic energy is energy produced by motion**. There are different kinds of energy produced by kinetic energy, but here we are only concerned with electricity produced by kinetic energy.

All remote doorbells have two parts, a ringer and a pusher. The ringer plugs into an electrical outlet in an apartment or a house. The pusher attaches to an exterior door, a door jamb, or a wall next to the door. The ringer is plugged into an outlet, any outlet, inside the apartment. Remote control doorbells operate by sending a radio signal from the pusher to the ringer. Up until recently, remote doorbells all had batteries inside the pusher to power the radio signal. The reason that these remote-control doorbells never became popular is because the batteries inside the pusher must be replaced every few months, and none of these doorbells use common size batteries like AA or AAA. They all use disk batteries. They are often hard to find in stores and are sometimes expensive. If a landlord owns a ten or twenty unit building, replacing all the batteries every few months becomes a time-wasting drudge. Plus, of course, the landlord will get service requests from tenants if their doorbell batteries conked out early.

Today, there are kinetic energy remote control doorbells. A kinetic energy doorbell has no batteries. The radio signal sent from the pusher to the ringer is powered by the energy produced by pushing the doorbell button. This motion, as small as it is, is enough to create a millivolt of electricity, which is enough to send a radio signal to the ringer (receiver). This means that there are no batteries in the system. Once you plug the receiver into an outlet in an apartment and attach the pusher to the exterior door, jamb, or wall next to the door; you're done! You now have a doorbell — a doorbell that needs no service, batteries, or an electrician to install. There are several other kinetic energy products that landlords and homeowners should know about. Maybe I will cover them in a future article. Warning — Most remote-control doorbells on the mar-

ket have batteries in them. Amazon sells lots of remote-control doorbells, but when buying a remote-control doorbell, be sure it says: 'battery free' or 'no batteries', not just 'remote-control or 'no batteries in the ringer.' Kinetic energy doorbells sell for \$10 to \$15 on Amazon! Personally, I think that's an astonishingly low price for a product that does all this product does. All kinetic energy doorbells sold on Amazon have two buttons on the ringer — a volume control button and a tune choice button. I set all my doorbells on 'ding-dong', but if your tenant wants to listen to 'Waiting For The Robert E Lee' or Italian opera every time somebody comes to his door, he can program the ringer to do that. Remember, Berkeley is now a far more competitive rental market due to all the new construction, and prospective tenants make mental notes of small amenities, and a doorbell is a small amenity. Small amenities give you an advantage.

from page 14

Smile!

We Would be Remiss Not to Urge Landlords to be Careful in How They Use the Data, Video or Audio.

It cannot be used for commercial purposes without express consent, be put on a website, used for blackmail, and so forth. If the data is obtained illegally, it can't be used for anything — it will be tossed out. Overexuberant landlords may secretly try to capture behavior that would build a case for eviction, only to find that whatever evidence gleaned is not admissible and worse, invite a lawsuit against the peeper.

Some Parting Thoughts

In the past, we have said that while it was laissez-faire with regulations and enforcement in the early going, the law would eventually catch up with technology. It did. We are at a similar crossroads now with the privacy and civil rights concerns raised with smart doorbells and a suite of related products. While users and subscribers are instructed by companies to use the equipment lawfully, it doesn't adequately explain what the law is or isn't. Many questions and grey areas abound in this digital world.

Never letting the grass grow from underneath our feet, the landlord attorneys at Bornstein Law can provide proper counsel to think strategically about how technology is employed in and around rental units. Don't let the use of smart devices be foolhardy.

Rent Regulations Reduce the Housing Supply and Push Market Rate Rents to New Heights

In response to strict rent control laws, the [New York] city's landlords kept 200,000 properties vacant, created a black market by only renting within their social circle or they turned their units into short-term rentals. The result was soaring rents.

Sound familiar? You may be surprised to learn that this narrative isn't about New York City but Buenos Aires. Recently, Argentina's President Javier Milei scrapped the national rental law as part of his economic reforms, which eliminated most government price controls, as highlighted in the Wall Street Journal.

The market response? The rental supply rose by more than 170% in Buenos Aires, and rental prices (adjusted for inflation) declined by 40% in one year.

Rent Regulation is a Band Aid, Not a Fix

Like Buenos Aires, New York City has imposed price controls on privately owned apartments for decades, capping rents far below market on the City's nearly 1 million rent regulated units. For the City's 1.1 million market rate units, competition is fierce among newcomers, young people and others entering the market, which drives up rents for this limited supply. The vacancy rate for rent stabilized apartments was 0.98% in 2023 and for market rate rentals 1.84%, the 2023 New York City Housing and Vacancy Survey shows.

The [New York] Housing Stability and Tenant Protection Act of 2019 (HSTPA) distorted the rental market even more by eliminating incentives to renovate rent stabilized units upon vacancy, which has resulted in owners leaving as many as 43,000 apartments vacant. HSTPA also did away with income verification, prohibiting an owner's ability to deregulate units that crossed a statutory high-rent threshold upon vacancy or when a tenant's income reached \$200,000 or higher in the preceding two years.

Just by reversing some of the new regulations introduced by HSTPA, landlords would be encouraged to renovate empty units, which would increase supply by returning thousands of existing apartments to the market. Income requirements would ensure that families that need affordable apartments get them, as would converting [rental] units to affordable housing, which would enable low income tenants to get rent vouchers subsidized by the government.

The Buenos Aires example illustrates that rents fall when an abundance of housing floods an under supplied real estate market.

Simon Shkury is the founder and president of Ariel Property Advisors, a commercial real estate services and advisory firm based in New York City. This article was first published on November 25, 2024, on Forbes.com.



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Berkeley Residents Form City's 1st Tenants Union Under New Renters Rights

Riley Cooke, KQED, February 24, 2025

Residents of a building in North Berkeley have formed the city's first tenants association under expanded renters rights, which voters passed last year, they announced Friday. At 1332 Shattuck Ave., tenants like Nikolas De Bremaeker said persistent maintenance issues regarding mold, leaks and electricity spurred him and his neighbors to form the Berkeley Tenants Union Local 1.

De Bremaeker helped organize his building starting in December after seeing a flyer about Measure BB, which changed Berkeley's Rent Ordinance to codify tenants' right to organize into collective bargaining units, among other protections.

Before the measure passed in November, there was no formal process for tenants to organize, and other collective actions like rent strikes are "functionally illegal" most of the time, said Avery Arbaugh of the citywide advocacy group Berkeley Tenants Union.

"Measure BB gives tenants the right to bring a landlord to the bargaining table in a similar way to a labor union," Arbaugh said. "I hope that this union will be able to get the landlord to the bargaining table so that they're able to address some of the major concerns that they're having in their building."

De Bremaeker said he and other tenants quickly found the necessary signatures — in their building of 18 units, they needed nine.

"[Some neighbors] were so worried about joining the tenant association out of fear of repercussions from the landlord, so we submitted it when we had 10 signatures, but we definitely feel that there's even broader support in the building," De Bremaeker said.

Landlords are prohibited from retaliating against tenants who participate in a tenant association. However, De Bremaeker alleged that he and other members received an intimidating letter after they officially petitioned to form a union.

The landlord, BTP Capitol Avenue LLC, said in a statement through attorney Daniel Bornstein that they reject any claims of intimidation.

"We conduct our business in accordance with all applicable laws and ethical standards, ensuring that all interactions are handled with professionalism and respect," the statement read.

Arbaugh said that although some conflict is likely inevitable in the organizing process, the city's Rent Board will have a "strong response" to any reports of retaliation and intimidation. Measure BB also stipulates that landlords and

tenants bargain in good faith — and if the landlord fails to do so, tenants can petition the city for a rent reduction.

"Berkeley has a very strong, uniquely strong tenant union system," Arbaugh said. "If there's a violation of the lease, that really ought to go both ways."

Arbaugh said tenants association members can operate on behalf of the entire building when it comes to better living conditions and more affordable rent.

"One of the main goals is just to put collective pressure on the leasing company and management company to kind of meet maintenance requests as well as the promises that were guaranteed in our lease," said Hala El Solh, another member of the tenants association.

For example, El Solh said she didn't know it was within her rights as a tenant to request an electrician until she talked to her neighbor, who did so successfully.

"That kind of information sharing is one of the primary reasons that we have this association," she said.

Other tenant protections in Measure BB include a 5% cap on how much landlords can increase the rent each year, down from 7%, and a requirement that landlords provide a notice of tenants rights.

Measure BB passed with 56% of the vote in November. Unlike other ballot measures, BB was competing with an alternative proposal called Measure CC, whose primary backers were property owners associations.

Ultimately, voters chose BB as the route to amend the city's rent ordinance, and tenants in the Shattuck Avenue building said they're grateful for those protections.

"We feel stronger and we feel more empowered, and we feel like we can exercise our rights," De Bremaeker said.

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