

APR  
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](http://www.bpoa.org)

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### A Sample Letter to the City Council

Dan Lieberman, President, BPOA

With the implementation of Measure BB, the regulatory burden on small property owners in Berkeley has hit a new extreme. However, we must adapt to it and follow the new regulations (even those that are legally questionable), as it is now the law.

Fortunately, our current City Council appears to be more balanced in its approach to housing policy than the prior council. But don't think there won't be more proposals coming forward to further curtail your rights and to make it harder for you to do business.

So, despite my relative optimism at the makeup of the new council, you will still need to show up at some council meetings and have your voice heard. Having a strong, unified message from housing providers will go a long way in preventing even more regulations and restrictions from being enacted. Below I've attached a brief 'letter to council' that might serve as a framework for some of your positions.

**To:** Mayor and Members of City Council

**Subject:** Balancing Tenant Protections with Sustainable Rental Housing Policies

Dear Berkeley City Council Members,

I am writing to express my concerns regarding the continued shift toward increasingly restrictive rental housing regulations in Berkeley. As a rental property owner of a six-unit building in Berkeley, I have witnessed firsthand how these policies, while well-intentioned, have led to unintended consequences that ultimately hurt both small housing providers and tenants.

I urge you to consider a more balanced approach that ensures fair tenant protections while also preserving rental housing supply and keeping small, independent housing providers in business.

#### 1. Policies Designed for Corporate Landlords Are Destroying Mom-and-Pop Owners

Berkeley has a significant number of small landlords who own just one or two properties, often as part of their retirement plan. One-size-fits-all regulations treat us the same as Wall Street-backed investment firms, yet small property owners lack the financial capacity to absorb these increasing costs and burdensome regulations.

**Solution:** Exempt small landlords (10 units or fewer) from costly requirements such as excessive relocation fees and complex tenant buyout regulations.

*continued on page 13*

### WEBINAR CALENDAR

**Asset Protection: Unforeseen Liabilities  
& Hidden Traps**

Thursday, April 3, 3:00 PM

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

**In-Person Event! Navigating Berkeley Rentals:  
Expert Insights with Attorney Ben Holl**  
Thursday, April 24, 5:30 PM

**College Student Rentals: Legal Issues for  
Roommates, Parents, Guarantors & Landlords**  
Thursday, May 8, 3:00 PM

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#### **About the Newsletter**

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

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

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

# Editorial

## Ombudsman

Albert Sukoff, Editor

The prime directive on Star Trek — the rule that trumped all the other rules — was *No interference with the social, cultural, or technological development of [a visited planet.]* For doctors, the rule is *First, do no harm*. I always thought there ought to be a prime directive for government bureaucrats. It would be: *If it's really, really, really, really stupid, don't do it.*

Whether you believe that the role of government in our lives should be minimal or expansive, you would likely agree that bureaucracy exists to serve the people. Government bureaucracies are expensive and whatever they do, one would hope they do it well and keep the focus on the needs of the citizens they serve. Unfortunately, at all levels of government, the civil workforce to some degree seems more concerned with their own lives than ours. Elon Musk and his DOGE Muskateers are certainly exaggerating the ineffectiveness of government and their actions are chaotic and overkill. Their efforts, however, are not entirely unwarranted.

When you feel personally aggrieved by some action of the government, you can give in and go away, or you can seek recourse. In more or less ascending order of complication, you can appeal for reconsideration from the offending bureaucracy; you can approach the management of that bureaucracy; or you can go the administrative arm which supervises the offending bureaucracy, maybe the office of a city manager. Appealing beyond the immediately offending agency, you can approach the political authority which governs the bureaucracy, maybe an assemblyman or a mayor. Finally, you can sue. Then, when you lose, you can appeal. What effort is warranted depends on the magnitude of the perceived offense juxtaposed against the time, toil and treasure involved in seeking recourse.

What you usually cannot do, however, is find an advocate within the government itself. Such a concept exists. It's called an *ombudsman*. The term comes from Swedish, where it means "representative," and ultimately derives from two Old Norse words *umboth* ("commission") and *mathr* ("man"). Sweden became the first country to appoint an independent official known as an ombudsman to investigate complaints against government officials and agencies. Some other countries have followed suit. Merriam Webster defines the role of the ombudsman *as a person who investigates, reports on, and helps settle complaints; an individual usually affiliated with an organization or business who serves as an advocate for patients, consumers, employees, etc.*

An obvious difference between dealing with a government entity and a market provider of goods and/or services is that in the market situation, you are usually free to take your business elsewhere. Years ago, I was treated so respectfully by someone on the counter at the Albany planning department that I mused about getting my Oakland and Berkeley permits from Albany. Doesn't work that way.

*continued on page 18*

# ❖ 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.**

Following the November 2024 election, Berkeley's City Council underwent a significant shift with the election of a new mayor and three new Councilmembers. Earlier in the year, two additional members were appointed to fill unexpected vacancies. As a result, in just one year, the Council has welcomed five new members along with a new mayor.

Whenever an elected body undergoes a major shift in representation, our industry must assess the political landscape to understand where officials may stand on housing policy. Nearly a decade ago, a dedicated group of long-time BPOA members founded the Berkeley Rental Housing Coalition and appointed its first Executive Director — someone committed to consistently monitoring and shaping Berkeley's housing policy. It has been a long journey, but for the first time in as many years, City Councilmembers are actively seeking input from BPOA's experts on proposed rental housing legislation.

While the Council is currently prioritizing managing a significant budget shortfall and enhancing emergency preparedness, there has been little new housing legislation proposed. However, the Housing Advisory Commission recently introduced an ordinance aimed at prohibiting rental housing providers from using algorithmic tools and private rental data to set prices, citing concerns that this practice constitutes price collusion, a form of anti-trust activity.

You might be wondering — what does that even mean? What kind of algorithm would I use to determine my rental price? And how could that be considered price collusion in Berkeley? In August 2024, the U.S. Department of Justice (DOJ) filed a civil antitrust lawsuit against RealPage, Inc., accusing the company of using algorithmic pricing software to enable collusion among competing landlords, ultimately driving up rental prices and negatively impacting millions of American renters.

The DOJ argues that RealPage's software enabled landlords to exchange nonpublic, competitively sensitive information — such as rental rates and lease terms — which the algorithm then used to generate pricing recommendations. This practice is said to have reduced competition among landlords, leading to higher rents for tenants.

While this legal action underscores the increasing scrutiny of algorithmic pricing tools in the real estate industry and their potential anticompetitive effects on housing markets, it seems largely irrelevant to Berkeley. Only 1,300 units out of an estimated 39,000 units of housing in the city are managed by large property management companies that use RealPage software.

Does possible price collusion on 1,300 units lead to anti-competitive effects across the whole of Berkeley's rental housing? Do those 1,300 units lead to higher rent prices for everyone? If price collusion is described as a process in which “competing businesses agree, either explicitly or implicitly, to set prices at a certain level rather than allowing market competition to determine them”, how in the world could 1,300 units override market competition from the other 37,700 units?

In what can only be described as “performative politics,” the City Council almost unanimously voted to pass an ordinance banning the use of these algorithms. True to Berkeley's style, social housing activists pushed for an even broader measure, calling for a ban on using both public data in algorithmic settings (like Zillow's Zestimate® for a vacant rental unit) and private data. We reminded the Councilmembers that banning public data would not only be nearly impossible, but could also be illegal, as you can't control how citizens use publicly available information.

In the end, Council stripped the policy of its restrictions on use of public data and agreed to limit its scope of the Ordinance to private data in algorithmic software only.

Just another day in the crazy and non-sensical proposals of Berkeley housing policy!

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 BPOA 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](mailto:krista@bpoa.org) or (510) 304-3575.



## Warning: There's a New Type of ADA Lawsuit That's Trending

By Anthony C. Guichard, President, ACR Concrete & Asphalt Construction, Inc.

ADA LAWSUITS are still on the rise going into the 2025 new year, however, in a variety of different ways and strategies than we have seen in the past. Apartment buildings with 16+ units with or without an on-site manager and any retail establishment are at risk for a new style of ADA lawsuits. I will get to these lawsuits in a few paragraphs. Owners are still making attempts to bring their properties into compliance and unfortunately are being sued over and over again. As I have stated multiple times in previous articles and webinars, **it is critical to work with a qualified ADA TEAM that consists of CASp inspector, ADA Design Professional, ADA Contractor and expert ADA attorney.**

Part of my responsibility as an ADA contractor, a CASp inspector, and an ADA design professional is educating my clients on "Accessibility" laws. As an expert on the ADA in the State of California, I spend a lot of time conducting seminars and webinars, and writing articles, and our website is filled with videos and other educational tools.. There is no simple way to explain ADA compliance since each property is completely unique.

### Steps Every Property Owner Should Follow

By following the steps I have outlined here, you can eliminate the chances of a lawsuit or as I have seen recently multiple lawsuits by different plaintiffs. I always tell my clients whether they own apartment buildings or any size retail centers, you must start with a CASp inspection by a CASp inspector who does not also work for the law firms that are filing these lawsuits. Once you have obtained a CASp inspection and an Access Certificate you will need to hire a company that can design the accessibility and have the design reviewed by a CASp inspector prior to the submittal to the city for a permit. Having an approved plan and city permit adds value and protection since now you have a recorded document with the city on when the property was brought into compliance. A CASp inspection is a review of a property or building by a Certified Access Specialist (CASp) who assesses compliance with accessibility standards, and is a licensed professional who has passed an exam to demonstrate their knowledge of federal and state accessibility standards.

After you obtain a city permit, the next step is to hire an ADA expert contractor that is not a general contractor or an asphalt contractor but an expert who truly knows the codes and laws. It's important the expert contractor performs the work in house and not subcontract the work out because you lose control of the details. Once the cor-

rections have been made then the city inspector will sign off on the city permit. Since we do not want to put all our confidence in the city inspector just like when we have our design plans reviewed by a CASp prior to city submittal, we will want to perform a final CASp RE-inspection to confirm all has been corrected. This is why it is critical to work with an ADA TEAM that works together daily to provide multiple checks and balances.

### ADA Lawsuit Strategies

So, here are the latest strategies being used by a few of the law firms that file multiple cases each day. For property owners that have successfully corrected the exterior of their property we see that the focus of the current lawsuits is on the accessible entry doors and the interiors. These law firms are now hiring CASp inspectors to perform inspections on your property without the owners being aware. This information is now given to a disabled plaintiff who visits the property for documentation and then files a lawsuit. These law firms have consulted with CASp inspectors for specific corrections that appear on most every property without the owner's awareness. These new allegations consist of the entry doors closing speed, the pressure used to open the doors, the floor mats at the doors and the entrance sign into the parking lot without the correct permanent letters.

The fact that there are a few CASp inspectors now consulting with the law firms that file these lawsuits, they are placing unsuspecting owners in a vulnerable position since they now have information on your property. This new practice is considered unethical by most ADA and Accessibility professionals. However, our company is currently assisting owners who are caught in these ADA lawsuits all by the same law firm and all appear to have the exact same allegations.

We highly suggest being proactive and obtaining a CASp inspection from a TEAM that only works on the defense side and your information remains confidential. The Accessibility laws are valid; therefore, the lawsuits are not going away any time soon. I see that these law firms are becoming more creative in filing these ADA lawsuit so being proactive is the best way to protect your property and become ADA complaint.

*Anthony "Tony" C. Guichard is the President / Founder of both ACR Concrete & Asphalt Construction, Inc & ACR ADA Design & Build.*

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*Bharat Sahgal, East Bay Property Manager*



# The Eviction Showdown: Texas vs. California

Mercedes Shaffer, Realtor

The eviction process serves as a critical mechanism for rental housing providers to regain possession of their properties in the event of tenant non-compliance. However, the efficiency and timelines of eviction proceedings vary greatly from one state to another, with Texas and California offering starkly different experiences. The disparity in eviction timelines highlights significant differences in legal frameworks and their implications for housing providers and tenants alike.

In the Lone Star State of Texas, the eviction process is characterized by its swiftness and efficiency. Once a complaint is filed with the court, a hearing must be held within a relatively short timeframe, typically between 10 and 21 days. Following the hearing, evictions can be finalized within 20 to 60 days, with most cases fully resolved in approximately 30 days. This expedited process allows housing providers to address tenant non-compliance promptly and minimize financial losses associated with unpaid rent or property damage.

Contrastingly, in the Golden State of California, the eviction process is marked by prolonged timelines, often ranging from six months to two years. This protracted duration can be attributed to various factors, including complex legal procedures, extensive tenant protections, and overcrowded court dockets. Moreover, it is further delayed due to the Sheriff being backed up, taking one to six months to execute the eviction, the final step in the process known as “eviction enforcement” or “eviction execution.” Such lengthy proceedings place a significant burden on housing providers, prolonging the period of financial strain caused by non-compliant tenants.

The ramifications of these divergent eviction timelines are profound. In Texas, swift evictions enable housing providers to mitigate financial losses and maintain the integrity of their properties. Conversely, the consequences of prolonged eviction proceedings in California are manifold. California rental housing providers face not only the loss of rental income for months or even years during the eviction process but also legal expenses including attorney fees and court costs, further depleting their resources and exacerbating financial hardships, making it increasingly challenging to recoup their losses.

Even in cases where eviction judgments are ultimately obtained, the likelihood of successfully collecting unpaid rent from non-compliant California tenants remains low. In many cases, tenants who have been evicted continue to evade their financial obligations, leaving housing providers with little recourse for recovering outstanding debts.

The contrast between Texas and California’s eviction processes highlights broader issues within rental housing law. While Texas prioritizes expediency and efficiency in resolving eviction disputes, California’s prolonged timelines

exacerbate financial burdens and place a heavy financial strain on housing providers. Even when a housing provider successfully navigates an eviction case, which is most of the time, they still face significant losses.

The California government is fostering a culture where tenants increasingly hold more rights than property owners, creating a sense of entitlement to live rent-free for as long as possible. This trend would have been further exacerbated by proposed legislation like “Right to Counsel” which gives qualified

tenants the right to free legal representation when facing eviction. Such measures embolden tenants further, making it even more challenging for property owners to reclaim their properties.

These legal frameworks and prolonged eviction timelines place an undue burden on housing providers, extending their financial and emotional distress. The eviction process is a vital mechanism for property owners to regain possession of their units in cases of tenant non-compliance. However, with the current trajectory of tenant-friendly policies in California, one must question the sustainability of such an environment for property owners.

How long can housing providers endure the financial hardships and procedural roadblocks imposed by the California legal system? Is it fair to expect property owners to bear the brunt of a system increasingly skewed in favor of tenants? Without a fair and efficient eviction process, housing providers might face untenable financial pressures, ultimately reducing the availability of affordable rental units.

Mercedes Shaffer is a commercial real estate broker with Coldwell Banker in Orange County.

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*The California government is fostering a culture where tenants increasingly hold more rights than property owners, creating a sense of entitlement to live rent-free for as long as possible.*

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Measure BB went into effect on December 20, 2024. Do you know the ins and outs of how these changes might affect you? There are ten significant ways in which Measure BB modified the Rent Stabilization Ordinance. Let's look at each one and explore whether it impacts your rental unit.

1. **Nonpayment of Rent Evictions.** Rent in arrears must now be equivalent to the HUD Fair Market Rate for a comparable unit before you can subject a 3 Day Notice to Pay or Quit. All notices and legal complaints must be filed with the Rent Board within 3 business days of the tenant being served. *(Effective for Fully and Partially Covered units).*
2. **Material Violation of a Lease Term.** A violation must now cause "substantial and actual harm to the owner." You must demonstrate the tenant's behavior was unreasonable and that must be clearly conveyed to the tenant. *(Effective for Fully and Partially Covered units).*
3. **Lease Renewals.** Failure to sign a renewing lease term that is equal to the first term is no longer a just cause for eviction. A tenant can demand to go month-to-month after the first term if they so choose. *(Effective for Fully and Partially Covered units).*
4. **New Notice Requirement.** For new tenancies created after December 20, 2024, the Notice of Tenant Rights must be given. If you have common areas in your property, the notice must be posted in all interior common areas. *(Effective for Fully and Partially Covered units).*
5. **Vacancy Reporting Requirements.** All new tenancies must be reported to the Rent Board within 15 days of commencement. Failure to do so may result in a financial penalty to the owner. *(Effective for Fully and Partially Covered units).*
6. **Partially Exempt Units Required to Report.** Measure MM (single family homes, condos & some ADUs) must now report each new tenancy to the Rent Board. The tenancy must be reported within 15 days of inception of tenancy, or the owner may face a financial penalty. *(Effective for Partially Covered units).*
7. **No Ratio Utility Billing Systems (RUBS) Allowed.** If you have a share meter for a utility, you may no longer charge a proportional share based on a per-tenant or per-unit ratio. Tenants can only be responsible for individually metered utilities directly billed to them. *(Effective for Fully Covered units).*
8. **Tenant Right to Organize.** Tenants have the right to organize in 10+ unit buildings. They can demand to meet with the owner to "confer in good faith" for issues of concern. Owners must comply with the request and if denied, the Tenants Union can go to the Rent Board to petition for a penalty associated with not complying with the law. *(Effective for Fully and Partially Covered units).*
9. **Capital Improvement Rent Increases.** If you make a capital improvement and want to increase the rent, you may now only petition for it *after* you have made the capital improvement. *(Effective for Fully and Partially Covered units).*
10. **Subsidized Housing Registration.** Section 8/subsidized housing units must now register and pay a fee to the Rent Board. Section 8 housing will now be subject to Berkeley rent control. This converts previously partially covered units into fully covered units.



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Tiffany Van Buren, BPOA Deputy Director

## Details Matter in a Down Market: How Small Touches Can Spark Big Results

When the rental market softens, as it has in many parts of the Bay Area, owners can feel powerless. Prices dip, turnover lingers, and it starts to seem like the only way to attract a tenant is to keep lowering the rent. But that's not the whole story.

In a depressed market, small details take on outsized importance. When prospective tenants have more choices, they can afford to be picky — not just about price, but about how a unit *feels*. And often, what makes a unit feel welcoming, clean, or desirable isn't major renovation work. It's attention to the little things.

Take, for example, the recent experience of a BPOA member with a fourplex of studio units. One of the studios had been fully updated in early 2025 with refinished hardwood floors, quartz countertops, a sleek new kitchen, and a stylish quartz shower surround. Two others had received upgrades in the last few years. The fourth, however, hadn't seen much love, aside from repairs and upkeep, since the early 2000s.

As expected, the freshly updated unit rented quickly.

The next two followed soon after. But the final unit — a clean, functional space with a very reasonable rent — sat vacant. Despite six open houses and steady inquiries, no one applied. Prospective tenants kept touring the unit and leaving with polite thanks and no follow-up.

The owner considered lowering the rent again. But instead, she tried something else: she staged it.

Before the next open house — the seventh in two months — she added a bright white shower curtain in the bathroom, a white rug on the floor, a leafy plant on the vanity, and two new doormats at the front and back doors. She swept the porch, knocked down the cobwebs, and made sure everything looked cared for before anyone even stepped inside. In the main living area, she laid down a neutral area rug to soften the space and define the room. Two more plants were placed in the kitchen to warm up the environment.

And one subtle touch made a surprising difference: the scent. Not candles or air fresheners — just the smell of clean. The unit had been thoroughly cleaned before, but the owner wiped down surfaces again that morning using citrus-scented cleaning spray. That fresh, unmistakable “just-cleaned” smell hit guests the moment they walked in. That final open house was a completely different experience. People lingered. They complimented the charm of the unit. They could *see* themselves living there. And just like that, the owner received not one but two sets of

applications. The first applicants were approved, and the second received their application fee back.

It wasn't a kitchen remodel or a major rent drop that made the difference. It was a shower curtain, some plants, and a little intention.

### Why Do Small Touches Matter So Much?

In a tough market, tenants are overwhelmed with choice. When rents are high and availability is tight, tenants are more willing to overlook flaws in favor of location or price. But when the opposite is true — when listings linger and rents dip — every small difference between units becomes amplified.

Tenants are no longer just asking, “Can I afford this?”

They're asking, “Do I want to live here?”

This is where staging and thoughtful presentation come in. Even subtle signals — like a fresh rug underfoot or a plant that adds a touch of life — communicate care and attention. They help tenants imagine the unit not as just another empty box, but as *home*.

### You Don't Have to Break the Bank

There's a reason real estate agents stage homes for sale: it works. But as a rental housing provider, you don't need a professional designer or expensive furniture. Some of the most effective upgrades are inexpensive and reusable across multiple turnovers. Think:

- **A clean white shower curtain:** *instantly brightens a bathroom*
- **Plants (real or fake):** *add life and warmth to any room*
- **Doormats:** *new ones say “welcome” before the front door even opens*
- **Rugs:** *define space and make rooms feel more finished*
- **The scent of cleaning products:** *subtle but powerful; it says “this place is fresh”*
- **A swept porch with no cobwebs:** *sets the tone before anyone walks in*

Combined with a spotless unit and thoughtful layout, these small investments can go a long way toward reducing vacancy time — especially for units that are older or less updated.

### Presentation Is a Form of Communication

At the end of the day, little touches signal that you care — not just about your property, but about the experience of the tenant. In a down market, that can make all the difference. The moral of the story? When the market cools, don't panic — pay attention. Think like a tenant. And remember: details matter.



### California Rental Housing Association

On March 11-12, 2025, members of the California Rental Housing Association conveyed for our annual Legislative Days at the State Capitol. We kicked off the meeting with presentations from the State Controller, Malia Cohen, and the State Treasurer, Fiona Ma, as well as the new Chair of the Senate Housing Committee, Senator Aisha Wahab. We then met with more than 90 offices in the State Capitol to speak in support of our sponsored bill — the Squatters Legislation (SB 448: Umberg), as well as a few key pieces of legislation we are opposing this year. We want to thank those of you that made the trip to Sacramento. Your stories and participation in explaining the day-to-day impact of legislation is critical to the continued success of CalRHA's advocacy efforts.

The legislation that CalRHA is sponsoring addresses a problem that many rental housing providers have been facing across the nation. There has been a serious uptick of unauthorized occupants of vacant properties (typically called “squatters”) and a reluctance by law enforcement to remove these trespassers from the property. The proposed bill 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.” It would prescribe a specific procedure for the notice and removal of the squatter by local law enforcement. It would also authorize a property owner or their agent to serve a demand to vacate, as specified, upon said squatter and after the service of the demand and failure to vacate, would be permitted to submit a request for removal by law enforcement. An owner would need to sign an affidavit under penalty of perjury that the occupant was unauthorized to be in the property and that there was no legal lease in effect. The bill will be heard first in the Senate Public Safety Committee and then in Senate Judiciary. We have already secured the support of many in the law enforcement community as well as the support of some legislators.

There are a few key legislative bills that have already been acted upon or amended. They include:

- **Assembly Bill 246 (Bryan) *State of Emergency: Residential Rent Increases: County of Los Angeles*** — This bill, notwithstanding any other law, would freeze rent on any unit located in the County of Los Angeles in excess of the rental rate for the dwelling or unit charged on January 7, 2025, through March 2, 2026. The bill passed the Assembly Judiciary Committee and is pending a vote on the Assembly Floor. Many

CalRHA members raised concerns about the impact this could have on all rental housing in California. The author's office has indicated a plan to amend the bill before it goes to the Floor for a vote, although it is not yet clear what amendments will take place. This was a bill we actively opposed during our Legislative Days.

- **Assembly Bill 311 (McKinnor) *Dwelling Units: Persons and Risk of Homelessness*** — The bill would permit a tenant, with written approval of the owner or landlord, to temporarily allow for occupancy of their rental unit by any person who is at risk of homelessness. This would also include one or more “common household pets” owned or otherwise maintained by the person and would allow for the rental housing provider to increase rent, subject to state and local ordinances. CalRHA has taken a support position on this bill, which is pending a vote on the Assembly Floor. Our reason for support is that it would require authorization by the rental housing provider of the additional occupant.
- **Assembly Bill 414 (Pellerin) *Residential Tenancies: Return of Security Deposit*** — This bill has been amended and would generally require a landlord to return the security deposit by personal delivery or by a check made payable to the tenant. If the landlord received the security deposit (or rental payments) from the tenant electronically, the bill would require the rental housing provider to return the remainder of the security deposit electronically, as specified, unless the landlord and tenant designate another method of return, via a written agreement. The bill would also authorize the landlord and tenant to mutually agree, as specified, to provide the itemized security deposit return statement by either email (to an email account provided by the tenant) or by first-class mail, postage prepaid, to an address provided by the tenant. CalRHA has not yet taken a final position on this bill.
- **Assembly Bill 1414 (Ransom) *Landlord-tenant: Internet Subscriptions*** — This is a newly amended/introduced bill that would prohibit a landlord from requiring a tenant to subscribe to a specific internet service provider. If the landlord violates that provision, the bill would authorize the tenant to deduct the cost of the subscription from the rent. CalRHA has not yet taken a position on this bill.

*continued on page 16*



Bay Area  
Bin Support

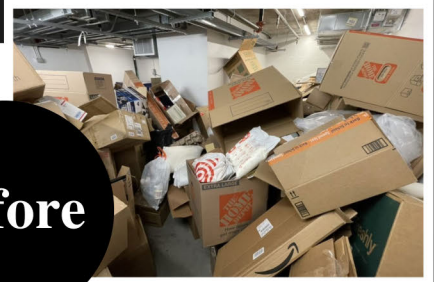
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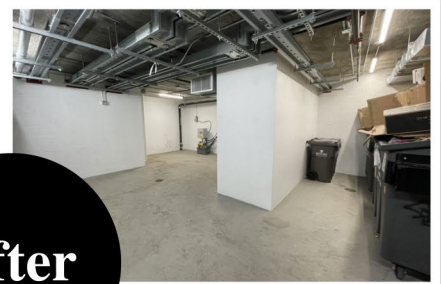
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## State Laws for Rental Housing in 2025

Along with numerous new local laws, the legislature wrapped up last year's session by passing several state bills, which the governor signed into law and implemented in 2025. Some of these laws have resulted in new addendums that will need to be added to any future lease package you may write. It is of utmost importance that you download all forms from the BPOA Rental Forms Library every time you have a new tenancy. That way you will be certain to have the most up-to-date forms for your lease package.

### Rental Application Fees: Effective January 1, 2025

This applies to any landlord that charges an application fee. A landlord may only charge a prospective renter an application fee if they either process applications in the order received and selected the first qualified applicant OR return the full fee to any applicant who is not chosen within seven (7) days.

Landlords must provide each applicant with a copy of their credit screening report within 7 days of selecting an applicant for tenancy or 30 days of the applicant's submission — whichever comes first. The applicant does not need to request a copy; landlords must provide it automatically. This is required for any applicant for whom you receive a credit report whether you pay for it or the applicant pays for it.

### Positive Rental Payment Reporting: Effective April 1, 2025

Requires specific rental housing providers 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. Owners of only one building with fewer than 16 units are exempt. Owners with multiple buildings (of any size) are subject only if a corporation, or an LLC in which one of the members is a corporation, owns the building.

For leases entered into, 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 that exist as of January 1, 2025, the offer to report a positive rental payment must be made no later than April 1, 2025, and at least once annually thereafter. BPOA has supplied members with the necessary forms to meet the requirements of this law. They can be found in our Rental Forms Library.

### Rental Unit Photo Documentation for Security Deposit Deductions: Two-Part Phase In Effective April 1, 2025 and July 1, 2025.

*Vacating Tenants:* Beginning April 1, 2024, rental housing providers must take photographs to document a unit's condition within a reasonable time after a tenant has vacated. Any damages must be documented with images before and after repairs if making security deposit deductions.

*New Tenancies:* Beginning July 1, 2025, housing providers must take photos immediately before or at the inception of a tenancy and immediately after the tenant has vacated. Additionally, photos must be taken both *before and after* the repairs, and provided to the tenant.



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# North Berkeley BART Housing Project Won't Break Ground This Year

Nico Savidge, Berkeleyside, March 20, 2025

The long-awaited project building hundreds of apartments atop the North Berkeley BART station will not break ground this year, according to the transit agency.

BART and city officials, as well as the development team that was chosen to build the 735-home project, have long said they hoped to start construction in 2025. The project calls for transforming the station's parking lots into a transit village, made up of 13 new buildings with 377 subsidized affordable apartments built by local nonprofits and another 358 market-rate homes from the for-profit developer AvalonBay.

But BART spokesperson James Allison wrote in response to a Berkeleyside inquiry that the development group North Berkeley Housing Partners now hopes to start construction of the project's first affordable housing building "as soon as early 2026," so long as that project can secure funding.

The outlook is less clear for the market-rate development, meanwhile, which Allison wrote is "awaiting improved market conditions." Housing construction has slowed in Berkeley and across the country since interest rates and materials costs shot up in 2022.

A representative for BRIDGE Housing, the affordable builder that leads the North Berkeley Housing Partners team, declined to comment for this article. AvalonBay did not respond to a request for comment.

The city signed off on plans for the project last December, capping a six-year planning process that stretched across dozens of public hearings and spurred an often contentious debate among station neighbors, housing advocates and lawmakers at the local and state level over the future of the eight-acre site.

BART has long seen housing projects like the one at North Berkeley as a key strategy for raising revenue, both through ground leases to the developers who build the housing and ridership from the residents who live in it. Those needs have only gotten more dire as changes to commute patterns since the emergence of COVID-19 threaten to plunge the rail system into a fiscal crisis.

But BART's efforts to build have fallen short of the pace the system hoped to set, and other projects on its property are facing the same economic headwinds as the one

at North Berkeley. About 4,200 homes have been built on BART land since the system started the push for more transit-oriented development, agency staff told its board at a meeting last month. BART had hoped to build 7,000 homes by this year, on its way to building 20,000 by 2040.

Like at the North Berkeley project, agency staff say affordable developments at many of their stations appear likely to break ground sooner than market-rate buildings. That's because construction costs have risen faster than market-rate rents, making those projects less attractive to investors, while tax credits and increased funding for affordable housing — such as the money Berkeley has put toward affordable homes at its BART stations — have made it comparatively easier for those projects to move forward.

Meanwhile, Berkeley recently released a set of preliminary design standards for another project to bring hundreds of apartments, more than a third of them affordable, to the Ashby BART station. BART is now soliciting for a developer to build the project.

*But BART's efforts to build have fallen short of the pace the system hoped to set, and other projects on its property are facing the same economic headwinds as the one at North Berkeley.*

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## 2. Stronger Eviction Protections Enable “Professional Tenants” to Exploit the System

The newly extended eviction process allows for abuses where tenants refuse to pay rent while landlords remain responsible for taxes, mortgage payments, and property maintenance. Some bad actors intentionally exploit the system, knowing it can take many months (or, in some cases, more than a year) to remove a non-paying tenant. In many cases, tenant attorneys will ‘negotiate’ money from owners in order to move out a tenant who hasn’t paid and even demand additional time in the unit with free rent. In addition, this behavior will be hidden from public view, as eviction records are ‘masked’, allowing a repeat of this behavior. Given the many delays these attorneys can create, it is usually less expensive for an owner to give in to this extortion than to follow the legal channels to a complete eviction.

**Solution:** *Flag repeat offenders (multiple evictions for non-payment of rent), preventing professional tenants from repeatedly taking advantage of overburdened small landlords.*

## 3. Landlords Are Not the Government — Housing Subsidies Should Be a Public Responsibility

If Berkeley believes housing is a right, it should be funded through public programs, not forced onto private housing providers. Requiring property owners to keep below-market rents indefinitely without fair compensation is an unsustainable policy.

In addition, the current policy subsidizes both affluent renters and those that might actually need the help. Requiring means testing to receive subsidies is done in pub-

lic programs, yet property owners are forced to subsidize tenants who don’t need the help just because they moved into a rental property subject to rent control.

**Solution:** Expand government-funded rental assistance programs rather than relying on local housing providers to subsidize tenants out of their own pockets. Additionally, provide tax incentives to property owners who voluntarily offer affordable units.

## 4. Tenant Protections Should Not Reduce Rental Supply

Berkeley’s strict rent control laws, relocation fees, and eviction restrictions are driving small landlords out of the market. Many property owners are selling their rental units, reducing housing supply and increasing rents in the long term.

History has shown that excessive rent control and tenant protections discourage investment in rental housing. Many landlords choose to keep units vacant rather than risk the legal and financial burden of renting under these laws.

**Solution:** Adjust rent control policies to allow reasonable rent increases, ensuring property owners can afford to maintain and improve their units, rather than being incentivized to keep them off the market. Perhaps introduce **small landlord exemptions** for properties with 10 units or fewer to prevent more units from being removed from the rental market.

## Conclusion: A Balanced Approach is Necessary

I respectfully ask the City Council to recognize that **rental housing providers are essential to Berkeley’s housing ecosystem**. Overregulating landlords will not solve the

*continued on page 16*

## Join Us for Quarterly Social Mixers with Fellow Members

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

DATE	TOPIC
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
Thursday, April 24, 5:30 PM	In-Person: Navigating Berkeley Rentals: Expert Insights with Attorney Ben Holl
Thursday, May 8, 3:00 PM	Webinar: College Student Rentals: Legal Issues for Roommates, Parents, Guarantors & Landlords

*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!*

# Berkeley, America's Healthiest City

Ani Freedman, *Fortune*, March 25, 2025

## 256 sunny days a year, over 50 parks, and abundant access to healthy eating

What makes a city the healthiest in America? Health is determined by many environmental factors — not just your personal habits. Moderate weather encourages you to get outside, while plenty of parks and recreational opportunities make it easier to be physically active. Access to healthy food options lowers the barrier to nutritious eating, and a bustling social scene helps you build community — whether you're a single young adult or raising a family.

Each of these factors is what boosted Berkeley, Calif. to the top of Niche's list of 2025 healthiest places in America. Read more about what this Northern California city has to offer.

### Desirable climate

It's never too hot or cold in Berkeley. The summer only reaches highs in the 70s and lows in the 50s, while the winter highs are in the 60s and lows only get down to the 40s.

You're also likely to see more sunshine than rain in Berkeley. It averages 256 sunny days per year and only 67 rainy days, while the rest of the U.S. averages 205 sunny days and 106 rainy days. With more sunny, temperate days, residents of Berkeley are likely to get out and move more than in other cities.

### Plentiful parks and green spaces

Getting outside in Berkeley is made easy by the city's more than 50 parks and dozens of green spaces — including nature reserves, wildlife environments and urban parks — which play a pivotal role in overall mental well-being. One study found that living in an area with plentiful green space is associated with less mental distress, anxiety, and depression, lower cortisol levels, and lower prevalence of disease.

Berkeley also hosts several adult sports leagues to make the most of those parks, including softball and volleyball — or you can reserve a pickleball court if that's more your speed. For runners — beginner or experienced — the local Berkeley Run Club already has nearly 5,000 members and is welcoming people of all fitness levels and abilities.

### Access to healthy food

Living in a food desert, or an area lacking access to affordable and nutritious food, can place people at greater risk of multiple chronic health conditions, including diabetes, obesity, heart disease, and mental health conditions ac-

cording to the National Institute on Minority Health and Health Disparities.

Residents of Berkeley, however, have several health food stores and farmer's markets available to them. The city is also home to the Berkeley Food Network, a local nonprofit that works to bring healthy food to the most disenfranchised communities across Berkeley.

### Perks for young professionals and families

Community is a core part of healthy living, and so is feeling like you and your family have a place you can flourish. Not only was Berkeley at the top of Niche's healthiest cities list, but it also claimed the no. 7 spot on its list of Best Cities for Young Professionals, which was based on the number of millennial residents and access to jobs, affordable housing, and entertainment.

Additionally, Berkeley received top marks for its high median income of \$108,558 — over 25% more than the national median household income of \$80,610. And families will find highly-rated public schools and numerous family-friendly activities, including camps and recreational sports leagues.

*This story was originally featured on Fortune.com*

### DENSEST US CITIES

*Persons per square mile*

CITY	RANK	pop/sq mi
New York City	1	29,303
Jersey City	2	19,835
San Francisco	3	18,629
Boston	4	13,976
Newark	5	12,903
Miami	6	12,285
Chicago	7	12,059
Philadelphia	8	11,937
BERKELEY	9	11,917
Santa Ana	10	11,347



# Easy Ways to Deter Homelessness Around Your Rental Property

By Patti Widget, Founder, Widget's Way

As a property owner or manager, ensuring the safety, cleanliness, and appeal of your rental property is a top priority. One concern that many landlords face is how to effectively deter homelessness from developing around their properties. While it's a sensitive issue, there are practical steps you can take to maintain your property's security and appeal while also encouraging those experiencing homelessness to seek appropriate help.

## *Increase Exterior Lighting.*

One of the most effective ways to deter homelessness around your rental property is to increase exterior lighting. Areas with poor lighting are more attractive to those seeking a place to sleep or stay out of sight. By installing bright, motion-sensor lights around the perimeter of your property, you can eliminate dark corners and make the area less appealing as a place to set up camp. Additionally, well-lit areas can deter other unwanted activities, such as vandalism or loitering.

## *Secure Water Sources.*

It is important to secure outdoor water sources such as hose bibs. By locking hose bibs, you can prevent easy access to water, which may discourage individuals from congregating near your property. This simple step not only protects your resources but also discourages prolonged stays. There are various hose bib locks available that are easy to install and can be a crucial part of your overall property management strategy.

## *Maintain Landscaping.*

Well-maintained landscaping is not just about curb appeal — it can also play a significant role in deterring homelessness. Overgrown bushes, trees, and other greenery can provide hidden spots where people may seek shelter. By keeping bushes and trees trimmed back, you remove potential hiding places, making your property less attractive for those looking for a secluded area to rest. Regular maintenance of the landscaping around your rental property also sends a message that the area is well-cared for and monitored.

## *Consider Fencing.*

If your rental property is in an area where homelessness is a recurring issue, installing fencing around your property might be a worthwhile investment. A well-constructed fence acts as a physical barrier that can deter individuals from entering the premises. It also helps to clearly define the boundaries of your property, which can be a deterrent

in itself. Consider options that not only enhance security but also add to the aesthetic appeal of your property.

## *Encourage Community Involvement.*

Creating a strong sense of community among your tenants can also help deter homelessness. When tenants feel invested in their surroundings, they are more likely to report suspicious activity or alert you to potential issues before they become major problems. Encouraging tenants to be vigilant and to communicate with property management can help maintain a safe and secure environment for everyone.

## *Work with Local Authorities and Organizations.*

Lastly, it's important to recognize that while these steps can help deter homelessness on your property, they don't address the root causes of homelessness. Building a relationship with local authorities and organizations that provide services to the homeless can be beneficial. These organizations can offer resources and support to individuals in need, helping to address the issue in a more humane and comprehensive way. By collaborating with local services, you can contribute to long-term solutions while protecting your property.

In conclusion, deterring homelessness around your rental property involves a combination of practical measures and community involvement. By increasing exterior lighting, securing water sources, maintaining landscaping, and considering fencing, you can make your property less attractive to those seeking shelter. Encouraging tenant involvement and working with local organizations can further support these efforts, ensuring your rental property remains safe, clean, and appealing for all.

*Patti teaches a wide range of classes on property management topics; she is a keynote speaker on property management and housing issues and has published numerous articles for apartment associations.*



# What is a Reasonable Accommodation?

Mark Tarses: Landlording with Mark

The law says that a reasonable accommodation for a tenant with a disability is a “change, adjustment, or exception to a landlord’s rules, practices, policies, or services that is necessary to provide the tenant an equal opportunity to use their dwelling and common area.” Like many other government regulations, this answer raises more questions than it answers. The two biggest questions are: “What is the definition of ‘reasonable’?” and “Who gets to decide whether a requested accommodation is reasonable, the landlord or the tenant?”

Some accommodation requests seem reasonable by any definition. For example, a building’s parking lot has one extra wide parking space, and a tenant in a wheelchair has asked if he could use it instead of the parking space that normally goes with his unit. Or maybe a disabled tenant has asked for permission to have a grab bar installed on her bathtub wall at her expense. But what happens when a tenant asks for an accommodation that the tenant thinks is reasonable, but the landlord does not?

**The Kangaroo at McDonalds.** Several years ago, a woman walked into a McDonalds in Beaver Dam, Wisconsin with a kangaroo. The customers panicked, fled the restaurant, and called the police. The police arrived, but they told the manager of the restaurant that they said that they couldn’t forcibly remove the kangaroo because it was an ‘emotional support’ kangaroo. The woman had a note from her doctor saying that she needed it. The woman owns four other therapy kangaroos in addition to the one took she took to McDonald’s. She says she takes her kangaroos everywhere with her — to shopping malls, movie theaters, and to church. The city council of Beaver Dam has since amended its charter to ban kangaroos as service or emotional support animals. Of course, this ban only applies in Beaver Dam.

**Airlines.** Airlines are starting to say ‘No’ to animals that they say shouldn’t be on airplanes. Delta will no longer allow therapy animals on flights that are untrained, and United refused to allow a passenger to bring a therapy peacock onto a plane. People have boarded airplanes with therapy and emotional support pigs, turkeys, ducks, parrots, snakes, and giant lizards. It’s easy to laugh at these stories, but it may not seem funny to you if one of these animals is sitting next to you on a plane. I know a landlord in Santa Rosa who had to allow one of his tenants to keep a 100-pound therapy Burmese python in his apartment — until it escaped. A snake like that can swallow a whole pig or a child. I hope that what United and Delta are doing will

start to bring some clarity and sanity to this issue. There are animals that just don’t belong in the passenger compartment of an airplane — or in an apartment house.

from page 9

## Policy Update

### The Legislative calendar for the year

April 11-18

**Spring Recess**

May 2nd

**Policy Committee Deadline for Fiscal Bills**

May 9th

**Policy Committee Deadline for Nonfiscal Bills**

May 23rd

**Appropriations Committee Deadline**

June 6th

**Deadline for bills to pass the Floor in their House of Origin**

June 15th

**Deadline to Pass Budget Bill**

July 18th

**Policy Committee Deadline in Second House**

July 18th - August 15th

**Summer Recess**

August 29th

**Appropriations Committee Deadline in Second House September 12th: Recess Begins**

October 12th

**Last Day for the Governor to Sign or Veto Legislation**

from page 13

## President’s Message

housing crisis — it will only worsen it by reducing supply and forcing small property owners out of the market. Current policies encourage large property owners to come in and buy out smaller owners, leading to higher rents and less local control of the city’s rental housing stock.

I urge you to engage with local housing providers to develop fair, sustainable policies that protect tenants while keeping rental housing viable.

Thank you for your time and consideration.

Sincerely,

Dan Lieberman

## Federal Housing Finance Agency's New Tenant Protections

The Federal Housing Finance Agency (FHFA) announced new Multifamily Lease Standards Policy (Lease Standards Policy) for multifamily properties financed by Fannie Mae and Freddie Mac. The Policy applies to all new loans for which an application is signed on or after February 28, 2025. This Policy introduces three key standards that will be incorporated into residential leases:

- *30-Day Notice of Rent Increases: Requires written notice of any rent increase at least 30 calendar days before the increase takes effect.*
- *30-Day Notice of Lease Expiration: Requires written notice of the scheduled lease expiration at least 30 calendar days prior to the expiration date.*
- *5-Day Grace Period for Late Rent Payments: Provides a minimum five-calendar-day grace period from the rent due date before late fees or penalties can be applied.*
- *Conflicts with Law: According to Fannie Mae and Freddie Mac, if there appears to be a conflict between any state or local requirements, including a longer time period for one or more of the required standards, Borrowers should follow the more stringent standard and/or incorporate the longer time period into their policies and individual leases with residents.*

In the event there is a conflict between any state or local requirements, including a longer time period for one or more of the required standards, Borrowers should fol-

low the more stringent standard and/or incorporate the longer time period into their policies and individual leases with residents. Borrowers who have been determined to be non-compliant will be provided at least 30 days to become compliant (with additional time granted if warranted). If Borrower continues to be non-compliant, Borrower will be assessed a penalty of 0.20% of original loan amount.

### SCOTUS Won't Hear Rent Control Challenge

Last year, the Supreme Court declined review of the petitions challenging the New York rent stabilization law without further explanation. New York's 1969 Rent Stabilization Act regulates rental housing in New York City covering buildings that contain six or more units and that were built between February 1, 1947, and March 10, 1969. The New York State Senate later expanded those protections with the Housing Stability and Tenant Protection Act of 2019.

The 2019 amendment to the Rent Stabilization Act sparked at least five legal challenges from real estate organizations and landlords arguing the restrictions under the Rent Stabilization Act violated the U.S. Constitution's Fifth Amendment protections against unlawful "takings," by restricting their ability to take their properties off the rental market and use them for personal use.



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A lot of bureaucratic interaction with the public is necessary and done with efficiency. Sometimes, however, vital functions are performed but not in a fair-minded or timely way. Sometimes bureaucratic requirements are overdrawn, overly complicated and take forever. Sometimes, they are just petty. I recently read an article about plans which were returned to the applicant of a multi-million-dollar project because the page margins were other than specified.

Expansive bureaucratic overreach in the control of private behavior can range from minimal to catastrophic. The catastrophic usually has a dollar sign in front of it. So how much power should an ombudsman have? As a member of the public, I would lean toward an ombudsman with greater power; maybe even the power to overrule the bureaucracy. At the very least, such a public advocate should have the power to demand the attention of the offending public employees and require reasoned reconsideration of any decision. Maybe there should ultimately be a commission of appointed citizens with review power: an omnibus appeals board.

### QUOTE OF THE MONTH

*Democrats keep showing up for a  
knife fight with a casserole.*

— Sen. John Fetterman (D-PA)

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How much power an ombudsman would have would be up to the governing body creating the position. Unfortunately, the relationship between politicians and the bureaucracy and is usually stronger than that between the politicians and the voters. The 'crats are usually an organized bloc which dispenses campaign funds to labor-friendly pols. The voters are an amorphous agglomeration of constituents, most of whom by far are not personally acquainted with their elected officials.

In the big picture, I don't see anyone but an obscure editor of a minimally circulated trade association newsletter calling for universal ombudsmen. Nevertheless, I think it would be a great idea and would like to see the state mandate such for all government agencies. Power to the people!

### Berkeley's Largest Employers

	Employer	Employees
1	University of California, Berkeley	13,213
2	Lawrence Berkeley National Laboratory	3,470
3	Alta Bates Summit Medical Center (part of Sutter Health)	1,773
4	Berkeley Unified School District	1,710
5	City of Berkeley	1,602
6	Bayer	1,043
7	Kaiser Permanente	944
8	Siemens	679
9	Lifelong Medical Care	533
10	Berkeley Bowl	523

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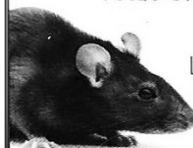
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