

SEP  
2021



## The Advocate for Berkeley's Rental Housing Providers

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### *Maybe It's Time to Rethink Your Pet Policy*

*Mark Tarses, President, BPOA*

For a long time, Berkeley landlords were sellers in a seller's market. The rent went up every year, and yet Berkeley's vacancy rate remained low. Now because of Covid and new apartment construction, we are sellers in a buyer's market. Landlords are having a hard time filling their units even with lower rents. Worse is yet to come. A lot of new apartments will be coming on the market soon. Just drive down Shattuck and Telegraph Avenue and look at all the new buildings under construction.

What can you do to get your units filled? Perhaps it is time for you to reconsider your pet policy. Many landlords don't realize just how many Americans own pets. Two-thirds of Americans own at least one dog or cat. Over half of all households own a dog, and over one-third own a cat. That means that when you advertise 'No pets', you are rejecting two-thirds of the population!

Here are some pet vetting tips.

1. Ask the applicant to email you a photo of the pet. You might be surprised at what you see. Also, having a photo prevents the tenant from switching from one animal to another after he moves in.
2. In the case of cats, the most important question to ask is how old the cat is. Very old cats commonly have bladder control problems, which can cause a lot of expensive damage to flooring.
3. Be suspicious. People often lie and withhold information about their pets if there is something about the pet that would turn off a landlord, like a dog with separation anxiety - that's a dog that whines and barks continuously whenever the owner leaves the apartment.
4. Clearly describe the pet in your pet addendum, including the name, age, color, gender, license number, and breed or physical description of the animal. Don't just say 'small dog.'
5. See evidence that the animal is licensed and vaccinated.
6. Never allow a 'group pet.' A specific person must be responsible for the animal. Remember the old adage: 'When everyone is responsible, no one is responsible.'
7. Use a pet addendum. It is not enough to simply mention the pet in your lease.

### **SEPTEMBER ZOOM MEETINGS**

#### *Seeing Your Way Through Tenant Challenges*

**Wednesday, September 15th, 4:00pm**

#### *Managing Additional Tenants, Guests & Subletters*

**Wednesday, September 29th, 4:00pm**

Check the event calendar at [bpoa.org](http://bpoa.org)  
for information & registration

*Due to the Delta variant and the return to indoor masking  
rules, we will not meet in person in September.*

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# Editorial

## The Newsom Recall

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.

### 2021

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Open Monday – Friday, with dedicated one-on-one appointments for your convenience.

#### 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)

When your own self-interest and your perception of the public interest are in conflict, how do you vote? I voted against Proposition 13 in 1978 and am proud that I did. It knew it would benefit me — and it certainly has — but I thought then, and I think now, that it was terrible tax reform. I think the State of California would be better off today had the measure never passed. Proposition 13 skewed the California tax structure by embedding stagnant *property* taxes into the system. In doing so, however, it did not lower the overall tax burden in California but shifted it to other taxes, like the more volatile sales and income tax, and to service fees. While some of us have low property taxes, we are all subject to compensating high taxes and fees elsewhere in the tax code. The sales tax in Alameda County is now 10.25%; the maximum state income tax is 13.3%. Proposition 13 turned tax policy in California into whack-a-mole. It has become the third rail of California politics and, as such, virtually unmodifiable.

With the recall effort to remove Governor Gavin Newsom, I find myself again conflicted. I believe that, Newsom's shortcomings notwithstanding, this recall is unwarranted. There are those who argue with some logic and credibility that he has been a terrible governor. They cite issues including covid, homelessness, over-regulation, high taxes, economic stagnation, expensive housing, traffic, rural fire policy and depopulation. Nevertheless, while his performance in office has been less than perfect and he is guilty of some serious misjudgments, his tenure as governor does not rise to the level of malfeasance.

About twenty states have a provision in law that allows for direct voter recall of public officials. This strikes me as one of those ideas that makes more sense in theory than in practice. There are several problems with the recall process in California. While recall of a public official should be limited to gross incompetence, corrupt behavior and/or demonstrable maladministration, the over-politicized climate in which we now live leads to the recalls based on raw politics. Grievances best addressed in a subsequent election become the basis for recalls. This is just so much gaming of the system. That sufficient numbers of voters do not like the political positions of an incumbent governor should not be grounds for recall.

Worse, California being California, recall elections at the gubernatorial level become theater. It is inappropriate but unavoidable that self-proclaimed gurus, porn stars and other wannabes get into the fray. Relatively easy entry attracts a fair share of kooks to a recall election. These candidates have no chance — or expectation — of winning; they just muck up the process.

The specific problem with the California recall rules is the simultaneous election of a replacement candidate. With almost fifty candidates vying to replace Newsom, it is unlikely but possible that the highest vote-getter could have as little as three percent of the vote. What is likely is that the winner of the replacement race will have no more than twenty percent of the vote. That's twenty percent of fifty percent in a low-turnout election. *This paltry plurality is hardly a mandate to govern.*

*continued on page 10*

# ❖ THE COALITION CORNER ❖

By Krista Gulbransen, Executive Director

**The Berkeley Rental Housing Coalition (BRHC)  
is the political and legal voice of Berkeley's rental housing providers.**

## *When Enough is Enough*

Our state association — the California Rental Housing Association — has had enough of the eviction moratorium in California. On August 5, the organization filed a lawsuit against the state of California for its violation of the Fifth Amendment. It challenges the constitutionality of AB 832, the state's third extension of the statewide eviction moratorium on evictions for nonpayment of rent. The suit alleges that the moratorium unconstitutionally violates rental housing owners' basic property rights, and substantially — and retroactively — impairs existing rental agreements and leases, which give owners the contract right to repossess their units for nonpayment of rent.

The lawsuit, filed under the federal civil rights act, seeks a declaration that AB 832 is unconstitutional and an injunction prohibiting its enforcement. "We tried working with our legislators and the governor to reach an agreement that would recognize the financial burdens faced by both rental housing providers and renters. The courts are our last resort. Rental housing providers across the state are suffering severe economic distress and losses directly caused by the State of California's ongoing overreaching eviction moratorium," said Christine LaMarca, CalRHA President. "The state continues to extend the eviction moratorium with no distinction between residents who cannot afford to pay due to the pandemic and residents who can afford to pay their rent but are using the moratorium to violate their rental agreements. Rental housing providers continue to provide housing — in some cases for no compensation — which leaves us with no recourse. Small and medium rental housing providers rely on rental income to pay their mortgages and maintenance expenses while also supporting their own families. We wake up every day thinking about how to house people — that is what we want to do — and government action is interfering with our ability to effectively do so. This lawsuit is intended to restore our rights and allow us to enforce rental contracts that have been unnecessarily expropriated for the past 16-plus months."

While Berkeley's local eviction moratorium supersedes the state's eviction moratorium, the City Council's ability to vote-in the eviction moratorium last March came at

the hands of California's governor. He gave local elected officials "emergency powers" during the pandemic's state of emergency, allowing them to craft laws that they would otherwise have had to take to the voters. While these emergency powers have been lifted by the state, the moratoriums remain in effect and their expiration is anyone's guess at this point.

CalRHA's lawsuit is an important step in protecting our members against future similar actions of the state or our local jurisdictions. As much as we would all like to think that at some point we will be "over" the pandemic and life will move on, it is clear this crisis will repeat itself in the future. We do not want an unintentional consequence of the pandemic to be the loss of small rental housing providers up and down the state.

The BHRC has donated \$10,000 to this fight, but CalRHA will need much, much more to see it through. We encourage you to take a moment and go to [www.cal-rha.org](http://www.cal-rha.org) to learn more about our lawsuit and to donate. Your membership in BPOA automatically gives you a membership to CalRHA at no additional cost.

This information is brought to you by me — the Executive Director of the Berkeley Rental Housing Coalition. The only way we can continue to provide you with this information is with your financial support. **Please consider joining the BRHC Your BPOA membership is automatically included.** If you are interested in lending your support so we may continue as a strong organization, please contact Krista Gulbransen, Executive Director at 510-304-3575 or [krista@bpoa.org](mailto:krista@bpoa.org).



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# Suffering Landlords Are Washington's New Eviction Problem

Katy O'Donnell, politico.com, August 14, 2021

## ***Landlords are unsympathetic figures in the eyes of many struggling tenants, but they're emerging as a new economic problem for Congress and the White House***

"We're doing everything the right way," said Matthew Haines, a Dallas property owner. "But we're drowning."

Landlords are unsympathetic figures in the eyes of many struggling tenants, but they're emerging as a new economic problem for Congress and the White House, after Democrats prioritized renters by pushing for the revival of the eviction ban earlier this month. The Biden administration has yet to find a way to accelerate the release of federal rental aid, meaning property owners will continue to be squeezed until the eviction moratorium expires Oct. 3 or is struck down in court.

A federal judge on Friday said the Centers for Disease Control and Prevention exceeded its authority by implementing the ban, but she let it remain in place until higher courts decide its legality. Local chapters of the National Association of Realtors are suing to block the policy.

Roughly 23 percent of small landlords leasing single-family rentals had sold at least one property as of February, according to a survey by the National Rental Home Council. Six months later, the renewed moratorium and the continued logjam in aid disbursement mean many more may not be able to hold on.

Some 6.5 million renter households are behind on rent, according to the most recent U.S. Census survey. Nearly 59 percent of those households live in properties with between one and four units, 72 percent of which are run by mom-and-pop landlords, according to an analysis of government data by the National Association of Realtors.

"The majority of rental housing in most major cities is provided by individuals," said Dean Hunter, CEO of the Small Multifamily Owners Association and a landlord in Washington. "The problem is in this case the government regulated individuals as if they are multinational organizations. It made no sense."

White House spokesperson Emilie Simons said the administration is concerned about renters and landlords in need, citing its support for rental assistance.

But some Democrats are openly dismissing property owners' concerns.

"Yes, the small landlords are at a disadvantage, but guess what, they know how to go to the bank, they know how to

get a loan," House Financial Services Chair Maxine Waters (D-Calif.) said July 30 as she rallied support for extending the eviction ban. "They know how to deal with hard times. ...I believe that they can hang on until [aid] flows smoothly, and I do not believe that the [renter] families, many of whom have three and four children, have that opportunity."

Even if they can wait out the sluggish aid, though, some landlords may never recover the money they've lost over the past year and a half.

"The eviction moratorium is protecting some renters who aren't eligible for aid or who will move out before it can arrive, so the landlords will never see that money," said Jay Parsons, a rental housing economist at property management software provider RealPage.

Smaller property owners appear to be struggling more than larger ones when it comes to collecting rent, according to Parsons.

"One of the things we've seen in our own data is, the smaller the property, the lower the rent collections," Parsons said, adding that buildings with fewer than 100 units have markedly lower collection rates than bigger properties.

In Dallas, Haines and his wife own three apartment buildings with fewer than 100 units, where the average rent is between \$780 and \$950 a month for a one-bedroom apartment. He said they have about 20 investors — "all people we know, family and friends" — and 10 employees, of which seven are full-time and three are part-time.

After paying employees, investors, utilities, insurance and property taxes — which have skyrocketed over the last two years as property values soared — the couple typically takes home about \$32,000 a year from their properties. Over the last 18 months, he said they've accrued \$250,000 in debt as rental payments slowed to a trickle.

"We've turned it over to collections, but we'll never see it," he said of his tenants unpaid rent. "In January we had to take \$50,000 out of our personal savings just to keep one of the properties going so we didn't have to lay anyone off."

Haines said he had one tenant who did not lose her job but who refused to pay rent over the course of the pandemic before moving out in January. If a tenant has moved, the landlord cannot receive assistance to cover their back rent. Another non-paying tenant has cut off communication,

*continued on page 9*

# Landlord Sues L.A. for \$100M Saying Anti-eviction Law Caused 'Astronomical' Losses

David Zahniser, Los Angeles Times, August 9, 2021

One of the region's most prolific apartment builders has sued the city of Los Angeles over its COVID-19 eviction moratorium, saying his companies have experienced "astronomical" financial losses and are legally entitled to compensation from the city.

GHP Management Corp., owned by real estate developer Geoffrey Palmer, said in its lawsuit that 12 buildings it manages have experienced more than \$20 million in lost rental income as a result of the measure. GHP, which filed the lawsuit along with several other Palmer companies, expects that number to triple by the time the moratorium's provisions have expired.

The city enacted its temporary eviction restrictions in March 2020 — just as COVID-19 was triggering business shutdowns and throwing people out of work — barring building owners from forcing out tenants who could not pay rent due to hardships caused by the pandemic.

Palmer's companies allege that the moratorium — first put in place by Mayor Eric Garcetti as an emergency order, then approved as an ordinance by the City Council — violated the "takings clause" established in the 5th Amendment, which says private property shall not be taken for public use without just compensation.

Palmer's companies said they are entitled to more than \$100 million.

"While the eviction moratorium ostensibly protects tenants who are unable to pay rent due to circumstances related to the COVID-19 pandemic, it arbitrarily shifts the financial burden onto property owners, many of whom were already suffering financial hardship as a result of the pandemic and have no equivalent remedy at law," said the lawsuit, which was filed last week.

GHP Management is a property management subsidiary of G.H. Palmer Associates, which owns more than 15,000 apartments in Southern California, according to the companies' websites. Owner Palmer develops apartment blocks in and around downtown Los Angeles with Mediterranean features and Italian names: Medici, Lorenzo, Piero.

Asked about the filing, City Atty. Mike Feuer defended the moratorium, saying his office wrote a "lawful ordinance" that has kept tenants from becoming homeless during the pandemic.

"We defeated a previous attack on these crucial protections and will vigorously defend the ordinance again," he said.

GHP has filed a second lawsuit over anti-eviction measures

enacted by Los Angeles County and the State of California. That case seeks another \$50 million and deals with apartment buildings in Santa Clarita.

The legal filings come less than two months after Gov. Gavin Newsom extended the state's eviction moratorium until Sept. 30, offering to cover 100% of the back rent and utilities owed by many low-income residents whose finances were hurt by the COVID-19 pandemic.

Both renters and landlords may apply. Landlords seeking aid must provide information from their tenants showing that their income qualifies them for relief, according to the state's website.

Tracy Jeanne Rosenthal, a member of the Los Angeles Tenants Union, said the state program shows that Palmer will "receive every dollar that he is owed." Still, Rosenthal said she does not believe he is entitled to that money.

"I am not at all convinced that his right to profit by means of passive income should take precedence over the very lives of tenants in Los Angeles whose incomes were severed by the pandemic and by public health orders that directed them to isolate and quarantine," she said.

Rosenthal and other organizers for renters' rights have argued that the city's law was not a true moratorium, since it did not prohibit building owners from filing eviction cases in court. In many cases, she said, tenants simply moved out of fear instead of fighting those cases, or lost in court after failing to make a defense.

In February, city housing officials reported that they had distributed more than \$98 million in subsidies to those affected by the pandemic in 2020. Of that total, 56% was paid to landlords, and 44% went directly to tenants.

Larry Gross, executive director of the tenants rights group Coalition for Economic Survival, said Palmer's lawsuit,

*continued on page 12*

*Tax planning and preparation for landlords*

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# Fresh Scams Hinder Effort to Disburse Aid to Renters

Lauren Hepler, San Francisco Chronicle, August 8, 2021

In expensive rental markets like the Bay Area, apartment scams light on details and heavy on pressure to hand over deposits are nothing new. But recent alerts from financial watchdogs and data on rental housing schemes point to a fast-changing landscape for California renters trying to navigate the frenzied pandemic housing market, where some tenants are struggling to dig out of debt while others take advantage of discounted rents.

A new Apartment Guide report reveals that from January 2015 to May 2021, California was home to three of the nation's top five cities for reported rental scams per capita: No. 1 Los Angeles, No. 3 San Francisco and No. 4 San Diego. The report also found that the busy summer moving season tends to be the most costly, when median losses have topped \$19,000 per victim.

This year, the timing couldn't be worse. After a slow start to California's unprecedented \$5.2 billion pandemic rent relief program, officials are pleading with tenants to apply for assistance before the state's Sept. 30 eviction moratorium expires. But tenant advocates warn that a widening array of scams may be hindering those efforts.

"It's really brutal out there in terms of trying to prove that you're not trying to just get people's information and take advantage of them," said Leora Tanjuatco Ross, associate director of the Housing Leadership Council of San Mateo County.

Even before the pandemic, Tanjuatco Ross said her non-profit was hearing more skepticism from renters worn down by years of rising costs and intense competition for housing. And now, dozens of community groups around the state have been enlisted to help pump out rent relief funds through a maze of city, county and state programs funded by the federal government.

As of last week, the state's primary rent relief program had paid \$282 million to 23,760 households, according to the California Business, Consumer Services and Housing Agency - a fraction of the 807,000 households that the National Equity Atlas estimates are behind on rent. When adding in smaller Bay Area county and city rent relief programs, just 10% of nearly \$900 million in funds available to the region had been paid out as of mid-July.

Now, efforts to speed up those payments are colliding with recent warnings from watchdog groups about scammers changing their tactics as pandemic rental protections start to expire.

"Con artists often take advantage of the confusion and

stress surrounding major events," the Better Business Bureau explained in an Aug. 6 alert. "As the eviction moratorium winds down, watch out for scammers offering loans, peddling credit repair services or promoting government programs."

The Better Business Bureau's scam tracker, which is just one snapshot based on consumer reports, identified more than 50 rental and moving scams around the Bay Area and 144 throughout California since the start of COVID-19 lockdowns in March 2020. They range from two room-mates in Oakland who said they lost \$4,190 after touring an apartment by sending money for a deposit through a cash app to a person in Los Angeles who paid \$499 for an eviction defense service that never materialized.

One challenge is that the range of rental scams in California has already exploded in recent years, going far beyond familiar attempts to get apartment applicants to wire money to unknown recipients. Now, scammers may assure targets that they don't need Social Security numbers, just a credit report. Or they repost photos from houses recently sold or listed for rent on more regulated websites such as Zillow, Vrbo or Airbnb, district attorneys in Santa Cruz County and elsewhere have warned.

Last year, the FBI's cybercrime division reported more than 13,600 confirmed victims of rental and real estate scams across the U.S., making them less widespread than credit card schemes but more frequent than health-care-related ploys. All told, real estate scams cost victims more than \$213 million.

Around the Greater Bay Area, rental scams have also taken root in areas reeling from fires and, more recently, in places seeing an influx of remote workers. Take a three-bedroom Santa Cruz bungalow with a white picket fence advertised for \$3,600 a month last week on Craigslist and \$4,600 a month on Zillow.

## PREMIUM PROPERTIES

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Peter Hegarty, Bay Area News Group, August 3, 2021

## Alameda property owner fined, must take mandatory training in fair housing law

The City of Alameda has reached an out-of-court settlement with an Alameda landlord accused of refusing to rent to someone on Section 8, a federal program that subsidizes rent paid by low-income tenants.

Someone was looking for an apartment online and saw an Alameda rental that was advertised by the landlord as “No Section 8,” which prompted the case, according to the city.

The city attorney’s office confirmed the landlord’s refusal to rent to Section 8 tenants, said Sarah Henry, an Alameda spokeswoman. The city announced the resolution of the case on Tuesday. The location and rent for the apartment were not available.

In September 2019, the City Council adopted fair housing laws, which in part made it illegal for landlords to discriminate against tenants or rental ap-

plicants on the basis of their source of income. That included those needing a federal subsidy, such as Section 8, to pay the rent.

Under the settlement, the landlord must pay \$6,500 — \$5,000 of which will be awarded to the person who filed the complaint. As part of the agreement, the landlord also must take part in mandatory training in fair housing law for property managers and obey anti-discrimination and tenant protection laws.

“The city of Alameda has consistently dedicated policies and resources toward producing, protecting and preserving housing in our community,” City Attorney Yibin Shen said in a statement. “City prosecutors are committed to justly enforcing state and local laws and ensuring that Alameda remains a place that people from all income levels and backgrounds can call home.”



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## 2020 Census: Berkeley is Denser and More Diverse than it was 10 Years Ago

Emilie Raguso, Berkeleyside, August 13, 2021

Berkeley's population has grown by 10% since 2010, with the proportion of Hispanic and Asian residents growing slightly as white and Black segments fell, according to 2020 data released this week by the Census Bureau.

The numbers mirror demographic trends in both the region and the nation, which saw 9% population growth in metro areas from 2010 to 2020, the Census Bureau said Thursday.

Berkeley, which now has a population of about 124,000 people, is 50% white, down from 55% in 2010, 20% Asian (up from 19%), 14% Hispanic (up from 11%) and 8% Black (down from 10%), according to the latest Census numbers.

Berkeley's Hispanic population has jumped a whopping 39% since 2010, to about 17,000 people, and the Asian population has grown by 15%, to nearly 25,000.

Meanwhile, Berkeley's Black population dropped 13%, to about 9,500, while the white population stayed mostly flat, at about 62,500, according to the U.S. Census.

Some of those numbers appear even starker in Berkeley's under-18 population, which dropped by 28% for Black youth, but grew by 33% for Asian

youth and 14% for Hispanic youth.

The percentage of the Berkeley population reporting two or more races has grown by 64%, and is now more than 9,000 people, according to the 2020 Census.

Berkeley's Diversity Index, the likelihood that two people chosen at random will be from different ethnic groups, jumped from 64% in 2010 to 68% in 2020. The Berkeley number is still lower than in nearby Oakland (77%) and Alameda County (75%), but saw a larger increase since 2010 than either of those jurisdictions, which remained essentially flat.

California has the second-highest Diversity Index in the nation, at 70%, just after Hawaii, at 76%. The United States overall has a Diversity Index of 61%.

Census officials said some of the apparent increases are likely the result of better methodology: "It is important to note that these data comparisons between the 2020 Census and 2010 Census race data should be made with caution, taking into account the improvements we have made to the Hispanic origin and race questions and the ways we code what people tell us."

### ***Fluorescent Lights Burnt Out? Here's What to Do with Them***

Even if the compact fluorescent lights (CFLs) you use are more efficient, they don't last forever, and neither do other fluorescent lights. So, what should you and your renters do when you're done with them? First things first: ***don't throw them in the trash!***

Fluorescent lights contain mercury, a potent toxin that's dangerous for tenants, workers, public health, and the environment. That's why it's illegal in California to dispose of them in the trash. Mercury can harm the brain, heart, and immune and nervous systems — and contaminate drinking water, fish, soil, and air. High-intensity discharge, metal halide, sodium, and neon lights also contain mercury.

Instead of trashing unwanted lights, recycle small numbers of lights for free at residential take-back partners in your area (**find the closest location at [bit.ly/safelights-ca](https://bit.ly/safelights-ca)**).

*Suna Bayrakal and Jessica L. Atkinson are with the Product Stewardship Institute, an organization that safeguards the welfare of people and the planet by working to minimize the health, safety, and environmental impacts that result when consumer products and packaging enter the waste stream.*



which means Haines can't file a claim for assistance on his behalf because such claims need the tenant's signature.

The National Apartment Association, a landlord group, filed a lawsuit against the government in federal claims court late last month, seeking \$26.6 billion to pay debts it said weren't covered by rental assistance.

Hunter, who leads the Small Multifamily Owners Association, said restrictions imposed on landlords by a patchwork of state and local bans on top of the CDC's national policy made things worse for property owners in major cities.

"The CDC moratorium was just the beginning," Hunter said. "The problem is D.C. and other jurisdictions went further than the CDC moratorium and added additional obstacles for providers. The impact has been devastating."

State and city governments have faced a series of obstacles in delivering the federal aid. They were required to set up brand-new infrastructure and proceeded with caution out of fear of being singled out for awarding money to the wrong recipients. Federal officials have complained the application process at the state and local level is often too complex.

To make things worse, many independent landlords are unaware that rental aid exists. More than 40 percent of

landlords and more than half of tenants did not know about the assistance programs, according to a May survey by the Urban Institute and Avail, an online platform that provides services for mom-and-pop landlords.

In the meantime, landlords complain that the issue has become too emotional and political — that they've been demonized even as they do what they can to help tenants.

"Our industry has been picking up the slack from the very beginning, in terms of helping people deal with the pandemic," said Cindy Chetti, senior vice president at the National Multifamily Housing Council, which represents professional landlords.

"That's what's not being reported, how much the industry is doing on this, how much they are working with residents," Chetti added. "That's the untold story, but nobody wants to talk about it."

National Association of Home Builders CEO Jerry Howard, whose organization includes about 3,000 property managers, agreed.

"Next to the front-line medical workers and emergency responders, I think the small-business landlords who have kept their tenants housed should be getting a good deal of credit," he said.

*Due to the Delta variant and the return to indoor masking rules, we will not meet in person in September. We hope to try to resume our in-person meetings on November 13. We will continue to hold member education online for those that don't feel comfortable attending in person. We look forward to welcoming you back and seeing your shining faces!*

**<https://www.bpoa.org/eventcal.php>**

DATE	TOPIC
September 15, 4:00 pm	Landlord 101: Seeing Your Way Through Tenant Challenges
September 29, 4:00 pm	Landlord 101: Managing Additional Tenants, Guests & Subletters
November 13, 10:00 Am	Insurance New Claim Prevention for Rental Housing Providers

***Our Landlord 101 series is for new rental housing providers or members that want to brush up on the basics of being a landlord in Berkeley. Each month we take on two topics in depth, examining everything you need to know to manage your own property. Check the BPOA calendar for more details.***

We lucked out getting Arnold Schwarzenegger in the Davis recall because he turned out to be at least marginally competent. Like him or not, it is undeniable that he did a credible enough job to subsequently get reelected in the more conventional manner. Who we get should Newsom be recalled remains to be seen.

I do not believe Gavin Newsom is good for me or for the rental housing industry. He is the leader of the liberal/progressive political bloc that rules California, these days with little meaningful opposition. The Democratic Party he heads has no respect for the essential service that rental property owners provide to California. We are just another pawn in the power game in which they favor tenants over owners at every turn. We are just another cow to be milked for votes, contributions and taxes.

I don't know which has been worse — the Newsom policy concerning rent during a pandemic, or the administration of that policy. Stopping all evictions was overkill. It empowered tenants to pay no rent with impunity. Any policy which allowed for mutually beneficial negotiation with tenants would have been better. A policy in which paying half the rent precluded eviction would have helped many owners to survive and still provided significant relief for tenants.

Instead, the Democrats have promulgated an unconstitutional taking of your property with an end-around which fools no one. There is no doubt that a law which simply forgave rent would be a taking. Instead, by precluding eviction — your only recourse to non-payment of rent — the government has created a situation tantamount to rent forgiveness. It has allowed debt to accumulate which can be repaid in theory but which in fact will never be repaid. I have single tenants — more than one — owing over \$40,000; it might as well be \$40,000,000. I will never see the money. That you can get a court judgment for the debt will likely pass constitutional muster, but many-to-most of these judgments will be uncollectible. *Uncollectible*, however, is as real a loss as *forgiveness*, regardless of what the courts say.

So...I don't think Newsom deserves recall but I — and I believe, we — would be better off if he were gone. Practically speaking, I think one of the have-some-relevant-experience, not-too-crazy Republican candidates will win the replacement race. Polls say it will be Larry Elder. If this were a straightforward election pitting Gavin Newsom against Larry Elder, how would I vote? Neither would be my first choice to govern California, but Elder represents my interests and my politics far-and-away better than does Newsom. Do I have a choice here?

## ○ — ZOOM MEETINGS & WORKSHOP FOR SEPTEMBER — ○

***Landlord 101: Seeing Your Way Through Tenant Challenges***  
Wednesday, September 15th, 4:00pm

***Landlord 101: Managing Additional Tenants, Guests & Subletters***  
Wednesday, September 29th, 4:00pm

## **SATURDAY MORNING MEETING IN NOVEMBER**

***Insurance New Claim Prevention for Rental Housing Providers***  
Saturday, November 13th, 10:00am

*Check the event calendar at [www.bpoa.org](http://www.bpoa.org) for information & registration*

## ○ — BPOA WORKSHOPS — Go Beyond the Basics — ○

# Bay Area's Battle Over Evictions Set to Intensify

Lauren Hepler, San Francisco Chronicle, August 10, 2021 [abridged]

The U.S. Centers for Disease Control and Prevention moratorium on evictions for nonpayment of rent expired July 31, then was replaced Aug. 3 with a more limited measure that will remain in effect through Oct. 3. California still has its own eviction moratorium until Sept. 30.

When the national eviction protections lapsed last week, renters and their advocates got a chaotic preview of what they fear might be coming on a much larger scale. Some 92,000 households are still at risk of eviction in San Francisco, Alameda, Santa Clara and San Mateo counties, data company UrbanFootprint found in a July report.

"The name 'moratorium' is really a misnomer, because it's not stopping all evictions," said Nassim Moallem, a housing attorney at the Law Foundation of Silicon Valley. "Recently we've been seeing more of these cases, absolutely."

Before the pandemic, the number of eviction lawsuits filed in California had been declining. There were 129,207 "unlawful detainer" civil filings during the 2019 fiscal year, according to the Judicial Council of California, down from 167,390 cases in 2013 just after the Great Recession.

In the nine-county Bay Area, 13,035 eviction lawsuits were filed from July 2019 to June 2020, a dip from recent years. But now, evictions appear to be rising based on sheriffs' enforcement data. CalMatters reported 3,675 evictions in the first three months of 2021, compared with just over 4,000 in the entire second half of 2020.

So far, California's program has helped around 21,000 households clear their debt, officials said last week — more than

other states, but a fraction of the roughly 800,000 households behind on rent, according to an estimate by the National Equity Atlas. On Tuesday, House Speaker Nancy Pelosi appeared in San Francisco's Mission District to tout \$56 billion in federal rent aid that Congress approved earlier this year to prevent more evictions.

"That is an enormous amount of money, the likes of which we have never seen for this purpose," Pelosi said. Still, she warned, "An initiative isn't successful unless people take advantage of it."

The concern for tenant attorneys is how many people are currently teetering on the edge — or have already fallen off. The vast majority of eviction lawsuits are settled before costly trials, and advocates say many tenants leave before formal court paperwork is filed to avoid a blow to their rental history that can limit future housing options.

"In this case in particular, it shows you where some of the gaps are," said Trejo-Saldivar, a housing law fellow with the nonprofit Community Legal Services in East Palo Alto.

As tenants struggle with how long to keep fighting, activists are also mulling new tactics to keep them housed.

The uneasy moment drives home a growing economic divide between Bay Area tenants. As renters hit hard by the pandemic take out loans and try to navigate a maze of rent relief programs, better-positioned tenants are wading into home bidding wars, taking advantage of pandemic rent drops or accepting cash buyouts from landlords to move out.

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if successful, would “wreak havoc” on the city, siphoning money from basic city services and throwing into question efforts to keep COVID-19 and homelessness under control.

Attorneys for Palmer’s companies did not respond to The Times’ inquiries. In their lawsuit against the city, they said the eviction moratorium had led to rent losses of more than \$2.7 million at Palmer’s Medici project in downtown Los Angeles; nearly \$2.8 million at the Da Vinci, a 526-unit complex along the 101/110 Freeway interchange; and nearly \$3.9 million at Summit at Warner Center, an apartment property in Woodland Hills.

Because of the city’s ordinance, lenders have refused to refinance loans on properties

Palmer’s companies also contend that they will have little success in recouping losses from their tenants after the one-year grace period that follows the end of the city’s COVID-19 emergency.

“The city orchestrated a regulatory regime designed to provide a compulsory and de facto rent forgiveness to be foisted on landlords throughout the city,” the lawsuit states.

## QUOTE OF THE MONTH

*Anyone who says that economic security is a human right, has been too much babied. While he babbles, other men are risking and losing their lives to protect him. They are fighting the sea, fighting the land, fighting disease and insects and weather and space and time, for him, while he chatters that all men have a right to security and that some pagan god — Society, The State, The Government, The Commune — must give it to them. Let the fighting men stop fighting this inhuman earth for one hour, and he will learn how much security there is.*

— Rose Wilder Lane



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Wednesday, September 15th, 4:00pm

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### LANDLORD 101 SESSIONS:

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