

MAR  
2022



## The Advocate for Berkeley's Rental Housing Providers

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### About Dogs & Cats

Mark Tarses, President, BPOA

A lot of landlords are afraid to ask applicants questions about service, comfort, or therapy animals because they fear that if they do, they will get sued. They are wrong. You can ask questions about any animal that an applicant tells you about. Remember that people who own problematic animals lie about it, and the only way you are going to find out the truth is by asking questions. If an applicant gives you evasive or suspicious answers to your questions, then you need to ask more questions. If you catch an applicant lying, you should write down exactly what he said in case you are charged later with discrimination. In addition, you should ask for a photo of the animal. That way a tenant cannot switch animals on you and claim it is the same one that he told you about when he applied.

I once got an application for an apartment from a man who said he had a cat named 'Muffin.' I asked him: "Why are you moving?" He answered: "My landlord is making me leave because Muffin pulled the linoleum up off my kitchen floor." I said: "Your cat pulled the linoleum up off the floor? Just how big is your cat?" He said: "About 80 pounds." I said: "You have a cat that weighs 80 pounds?" He said: "Yeah, about that." I said: "I'd like to see this cat. Do you have a photo of your cat with you?" Initially he said: "No" but after I told him that I was not going to process his application until I saw a photo of his cat, he opened his wallet and handed me a photo. I looked at the photo and said: "This is a picture of you standing next to a German Shepherd." He said: "That's Muffin!" I said: "I don't understand. You told me that you have a cat. You wrote the word 'cat' on your application form. Why?" He said: "Well, in your ad, you said you would allow a cat but not a dog." I said: "So, you thought that if we called your dog a cat, then it would legally be a cat?" He said: "Yeah, something like that." I rejected his application and rented the apartment to a couple with a real cat.

### MARCH EVENTS

**30-Minute Hot Topic:**  
**Complying with the Fair Chance Ordinance**

**Tuesday, March 8, 3:00 pm**

**Rental Housing Provider 101:**  
**A Course for New BPOA Members**

**Thursday, March 10, 5:30 pm**

**Nailing the Move-In Process:**  
**Avoiding Future Costly Mistakes**

**Thursday, March 17, 3:00 pm**

*See pages 9 & 10 for details*

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BPOA Monthly is a regular publication of the Berkeley Property Owners Association, a trade association dedicated to assisting rental housing providers with upkeep and management of residential rental property and coping with Berkeley's rent law.

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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)

# Editorial

## *Barbarian at the Gate*

*Albert Sukoff, Editor*

I have been writing these editorials for fifteen years now. I have tried over the years to keep to topics relevant to the readership, i.e. Berkeley rental property owners. Sometimes the topic is right on target, like last month's discussion of TOPA. Other times, however, I have meandered off into broader issues of public policy. Even in these cases, I try to keep discourse relevant to the readership. This will be my first meander into the field of foreign affairs. Take it for what it's worth.

My introduction to classical music was Mussorgsky's *Pictures at an Exhibition*. I was barely a teenager. This piece consists of musical interpretations of ten paintings with the signature musical theme between each. The iconic theme is the viewer/listener walking from one picture to the next. The last piece is called the Great Gate at Kiev. Kiev was a walled city a thousand years ago and there was a great gate in the wall. You can google the painting of the gate by Viktor Hartmann which was the inspiration for Mussorgsky. Long ago destroyed, the Great Gate was rebuilt in the 1980s when Ukraine was part of the Soviet Union. (And you thought *irony* was the opposite of *wrinkly*.)

And now, quite literally, the barbarians are indeed at the gate. Compensating for the genetic misfortune that left him four or five inches short of the minimum height necessary for psychological security, Vladimir Putin has found it necessary for Russia to invade its vastly smaller and less-well-armed neighbor. Juxtaposing various statements from this barbarian, we get reasons like:

- The Ukrainians leadership is composed of neo-Nazis who practice genocide on our Russian brothers who, incidentally, occupy parts of their country in an armed insurrection.
- Ukraine is a bogus country which is alternatively part of the history and the soul of Russia. They are our brothers and if they will not capitulate, we will march in and kill them.
- There are no Ukrainian forces along the border with Russia while some 190,000 Russian troops are poised to invade Ukraine. Ukraine is the aggressor.

I have watched the Russian invasion into Ukraine with horror. I thought of all the tyrants the world has endured over my lifetime. There are the big three: Hitler, Stalin and Mao. They top the list because they killed the most people. Hitler was responsible for fewer deaths than his fellow brutalists but usually gets the top spot for his purity of motive, overtly expressed in the plainest of terms. Not incidentally, Stalin gets big points for deliberately and systematically taking the Ukrainian grain crop to feed Russians leaving Ukrainians to literally starve to death. Yeah, that Ukraine.

But the second tier is not composed of slouches. From Europe, we have Benito Mussolini, Francisco Franco, Nicolae Ceausescu, and Enver Hoxha. From Latin America and the Caribbean, there was Juan Peron, Hugo Chavez, Fidel Castro, Francois Duvalier and Daniel Ortega. Africa gives us Idi Amin, Robert Mugabe and a string of petty tyrants. Coming in from Asia are Bashar al-Assad, Pol Pot and a trio of Kims from Korea. All of these guys, and others, practiced the Art

*continued on page 12*

# ❖ 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.**

## **When Mom & Pops Disappear**

Providing safe, habitable, and healthy housing isn't easy. It's expensive. It's rife with risk. It takes a lot of time. It's questionable — at best. And that was before the pandemic... Since the pandemic, there has been a significant increase in both the risk and cost to providing rental housing. Some owners have been forced to go without rent for two years. Others have had to sit by and watch their tenants blatantly violate the lease knowing the owner can't terminate their tenancy. In a time when our collective mental health has taken a beating, both owners and tenants have teetered on the edge of insanity.

But what happens with the state and local government take things too far? The Governor recently expired 52 of the executive orders he put in place to allow localities the ability to "respond in a timely fashion" to public health needs. Unfortunately, he left in place the overall state of emergency, claiming there were still actions he needed to be able to take to protect California's residents.

It probably goes without saying that rental housing and education are the two sectors that have been hardest hit by thinly veiled "well meaning" public policy. Of course, it's possible legislators were unaware that the policies they put in place would end up lasting (more than) two years, but we are certain the social housing activists saw it otherwise. They quickly activated and realized that this was the opportunity they had been looking for. New policy or major changes to existing policy can be very difficult to execute on and activists are often left with trying to cram everything into an election every two years. But with the activation of emergency powers given to local officials, social housing experts knew they had a chance to push their

progressive legislators to use those powers that otherwise would have only been given at the hands of the voters.

In spring of 2020 we tripped across a social housing website which laid out a plan to absolve tenants of responsibilities under the terms of their lease agreement, through 2024. This indicates to us that they were aware the pandemic would last for more than a year and that they intended to destroy as much privately held rental housing as they could in a four-year period.

Our greatest fear is that as they focus on a goal to reduce privately owned rental housing to less than 50% in total, that destruction will come with a serious price tag. It is guaranteed to destroy the small housing provider. An owner of fewer than 5 units in total is a small business that can't sustain decreased income, increased costs, and an increasingly competitive market. These same activists' rail against the "corporate landlords" of the world yet their actions guarantee the only housing provider they will be railing against in the future is the corporate landlord.

In their plan, they chose to ignore that swaths of housing units will be taken off the market and larger organizations will be the owners of what remains. It is the epitome of cutting off one's nose to spite one's face. If you're struggling to maintain holding onto your rental housing, we want to hear from you.

Please help us fund our efforts to fight against unbalanced, unfair, and poorly thought-out rental housing policy. Upgrade your membership in the Berkeley Rental Housing Coalition. The BRHC 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.

## ***BPOA is Growing!***

We are pleased to announce the addition of a new member to the BPOA family. Tiffany VanBuren joins us as Deputy Director. She hails from the property management industry, most recently working as an Office Manager for KLS Associates (owned by BRHC Board Member, Kathy Snowden). She started her career as an accountant and bookkeeper working with rental property owners. During her work with KLS Associates she quickly familiarized herself with the rules and regulations of Berkeley rental housing and helped guide owners to comply with the city's requirements. She holds a B.A. and Master of Fine Arts from UCLA. Tiffany lives in Oakland with her two teens and is a homeowner.





# Berkeley Housing: Projects Could Bring More Than 500 New Apartments

Nico Savidge, Berkeleyside, February 11, 2022

Developers are pitching plans for four new apartment complexes along Shattuck, University and San Pablo avenues. Meanwhile, work has resumed on a downtown Berkeley project that was destroyed in a fire while under construction in 2020.

If they're all approved and built, the four recently submitted projects would create a combined 512 apartments — at least 72 of which would be affordable — in new buildings in North, Central and West Berkeley.

The rebuilt project at 2067 University Ave. will add another 50 units, assuming its construction isn't derailed again.

Here's a round-up of the projects:

## **1598 University Ave.**

The largest of the proposals is a plan to build a 210-unit, eight-story complex at the intersection of University Avenue and California Street.

The proposal is in the very early stages — Berkeley-based NX Ventures submitted a pre-application for it in January, and co-founder Nathan George cautioned that the project's details and the design shown in renderings are both subject to change.

Plans call for a U-shaped structure built around a central courtyard on its south side, with 42 affordable units, a large commercial space on the first floor and a 42-spot parking garage.

To make room for the project, George's firm is proposing to demolish the A-frame building that has long housed North Beach Pizza at the corner, along with the building at 1548 University Ave., home of the Chinese language Hanwen School.

NX Ventures' pre-application was first reported by the San Francisco Business Times. The firm also built the Overture apartments at 1812 University Ave.

"We think it will be a really nice project for that University corridor," George said of the 1598 University project. "It's a great location close to North Berkeley BART and Ohlone Park."

## **2601 San Pablo Ave.**

NX Ventures is also eyeing the intersection of San Pablo Avenue and Parker Street for a seven-story project with 194 apartments.

A project application calls for including at least 20 apartments for very low-income renters, which under California's density bonus law could allow George's firm to

build higher than the area's 50-foot height limit, to a total height of 79.5 feet. To satisfy Berkeley's affordable housing requirements, the development team plans to either include additional below market-rate units in the building, or pay into the city's affordable housing fund.

Taking advantage of Berkeley's move to eliminate minimum parking requirements in new developments, the building plans don't include any on-site parking for residents. Instead, it would have storage space for 118 bicycles.

The project would require the demolition of existing buildings at 2603, 2609 and 2613 San Pablo Ave. One of those buildings was the long-time home of KC's Bar-B-Que before it was destroyed in a fire in 2017; the restaurant has since moved to a new location.

NX Ventures' proposal has not yet been scheduled for a hearing by the Zoning Adjustments Board.

## **1752 Shattuck Ave.**

Berkeley developer Patrick Kennedy has plans for a 68-unit apartment building that would become the tallest structure on the North Shattuck corridor.

Kennedy's firm, Panoramic Interests, wants to replace a car repair shop at the intersection of Shattuck and Francisco Street with a seven-story building that has apartments ranging from studios to three bedrooms. The building will have at least seven affordable units, and Panoramic Interests is still deciding whether to include additional units or pay into the affordable housing fund to satisfy city requirements.

The building also won't have any resident parking on-site — six parking spaces included in the plans would be for customers at a cafe planned for the ground floor.

A handful of neighbors attended a community forum on the development, two of whom objected to the building's height and size, according to notes submitted in the project application. But Kennedy, whose firm has built more than a dozen projects around Berkeley, noted the area is home to several four- and five-story apartment buildings, and said he has seen opposition to greater density softening.

"I think residents of North Berkeley and Berkeley at large recognize that there's a massive housing shortage," he said. "I think the pendulum has swung in favor of in-fill development."

*continued on page 6*

# Vacancy Tax Might Appear on S.F. Ballot

*J.D. Morris, San Francisco Chronicle, February 9, 2022*

San Franciscans might vote this fall on whether the city should tax thousands of vacant homes to encourage landlords to rent them out and help ease the housing crisis.

Supervisor Dean Preston said Tuesday that he and local activists want to put a ballot measure before voters in November that would make the owners of some homes pay up if they're kept empty for too long.

Supporters filed paperwork for the proposed measure Monday and now have until July 11 to gather and submit nearly 9,000 valid signatures needed to qualify for the Nov. 8 ballot.

Preston's office estimated the tax could raise more than \$38 million annually.

If it makes the ballot and voters approve it, San Francisco would follow in the footsteps of a handful of other expensive cities, including Oakland, that have responded to housing shortages in part by trying to free up more of their existing units.

The idea is being proposed in San Francisco as city supervisors have at times clashed with Mayor London Breed about the best way to respond to the city's sky-high housing costs and its shortage of affordable homes. Supervisors killed Breed's third attempt to streamline new housing construction through a charter amendment and rejected a proposed 495-unit building in SoMa, which the mayor called a "perfect example" of "how San Francisco got into the housing crisis."

If voters approve the new tax, half of its revenue would fund rental subsidies for seniors and low-income families, while the other half would support a new program to help the city buy empty buildings and convert them into affordable housing.

It's not yet clear just how a vacancy tax would affect San Francisco's housing market, or whether it will prove popular among voters. But a report from the city's Budget and Legislative Analyst recently estimated that the city had more than 40,000 vacant homes as of 2019.

The proposed tax could make about 4,500 of them available over a two-year period, according to the report, which was prepared for Preston.

Many homes would be exempt from the tax, which is aimed largely at investors, real estate speculators and anyone else who is "buying units like they buy stock," Preston told The Chronicle.

"They have a business model that involves holding it vacant and reselling it in the future," he said. "That doesn't benefit anyone in the community. It hurts the entire community. Those homes should be filled."

San Francisco voters previously approved a tax on vacant storefronts in 2020 and it became effective this year.

The tax for homes would apply to the owners of buildings with three or more units when at least one of them has been unoccupied for more than six months in one year. Single-family homes and two-unit buildings would not pay the tax, nor would primary residences, leased properties or affordable housing projects. Units that become vacant because of construction, the death of an owner or natural disaster would have more time than other kinds of homes before being subject to the tax.

Tax rates would vary depending on the size of the home and the amount of time they've been unoccupied.

For example, the owner of a vacant home of less than 1,000 square feet would pay \$2,500 in the first year and \$10,000 in the third, while the owner of a home of more than 2,000 square feet would pay double those rates.

Supporters of the vacancy tax proposal are hoping to emulate Vancouver, British Columbia, which passed its own assessment on vacant units in 2016.

After the tax was first implemented, Vancouver saw a 21% drop in vacant units and generated millions in new revenue used to support affordable housing initiatives, the San Francisco analyst report said. But vacancy rates have since stabilized and rents are increasing.

Thomas Davidoff, an associate professor at the University of British Columbia's Sauder School of Business, said the precise effect of Vancouver's vacancy tax was difficult to gauge but it appeared to have few downsides and was broadly popular among voters.

"There's nothing bad about it that I know of," Davidoff said. "If you own an Airbnb, it's not great, or if you're a rich guy with a second home ... There's certainly fewer vacant units than there were before."

Meanwhile, Oakland's first year implementing its tax on vacant homes and businesses resulted in the city collecting more than \$7 million, though many properties are exempt. In Oakland, the annual tax ranges from \$3,000 to \$6,000, depending on the kind of home or property.

## Woodside Finds Creative Way to Block New Housing: Mountain Lions

*Sam Whiting, San Francisco Chronicle, February. 2, 2022*

A Woodside official says the city cannot comply with a new state law that expedites construction of two-unit housing and lot subdivision in areas zoned for single-family homes because of its mountain lion population.

On Jan. 27, Woodside Planning Director Jackie Young released a memo explaining why the town cannot do its part to ease a chronic housing shortage. Young said no parcels in Woodside would be eligible for a lot split under SB9 so long as the mountain lion is a candidate for the endangered species list in the Central Coast habitat, which includes Woodside.

A petition to list the mountain lion as threatened or endangered is under review by the California Fish and Game Commission. According to state law, a species listed as a candidate is due the same protection as a species that has been declared threatened.

Melissa Miller-Henson, executive director of the state Fish and Game Commission, said Wednesday that a listing decision for the mountain lion has been delayed pending a status review by the state's Department of Fish and Wildlife. The status review has been in the works for 18 months and is nearing completion.

Once the report comes in, the public will have a minimum of 30 days to review it, before the commission will even discuss it. The commission will then have up to 90 days to decide whether to list the mountain lion as endangered. In the meantime, any application for SB9 housing is on hold.

"Given that Woodside — in its entirety — is habitat for a candidate species, no parcel within Woodside is currently eligible for an SB9 project," Young stated in the memo.

SB9 was enacted on Jan. 1 to allow two units of 800 square feet or more per residential parcel. It also allows any lot with a minimum of 2,400 square feet to be subdivided and buildings on each of the new lots.

Many towns like Woodside have addressed chronic housing shortages by allowing ADUs, also known as in-law flats and granny units. But these units cannot be sold separately from the main house. SB9 units can be sold separately, either as a condo or TIC — tenancy in common — or through a lot split, said Rafa Sonnenfeld, director of legal advocacy for YIMBY Action, an activist group that supports construction of more housing everywhere. An SB9 project could also include an ADU, in the case of a split lot creating four homes on a lot previously zoned for one, he said.

Woodside, which is mostly west of Highway 280 and conveniently midway between San Francisco and San Jose, is one of the wealthiest towns on the Peninsula, with a population of around 5,000 and a low-density country feel that protects its heritage as a horse community. The Woodside planning memo may be the first attempt to delay or circumvent the spirit of the law, its proponents suggest.

"This is so absurd," said Laura Foote, executive director of YIMBY Action. "It is an example of the extreme absurd lengths cities will come up with to evade state law."

Foote noted that legislation allowing construction of secondary or in-law units in areas zoned for single-family housing has already been enacted, so she had trouble following the logic, given that Woodside is already known for excess as the most desirable address for Silicon Valley executives and venture capitalists.

"You can build a McMansion and that somehow won't hurt the mountain lion," said Foote. "But if you build two units the lions will somehow fall over and die."

State Sen. Scott Weiner, a housing advocate, tweeted: "Woodside announced it's exempt from state housing law because of ... mountain lions. I'm all for mountain lions. I'm also for people. You know, the ones who need homes. Can't wait for the lawsuit against Woodside for this brazen violation of state law."

Even San Francisco supervisors piled on. "The entire wealthy suburb of Woodside is claiming to be a protected mountain lion habitat to skirt state law allowing fourplexes. What shameless ridiculousness," tweeted Matt Haney. Young, the Woodside planning director, referred press inquiries to Town Manager Kevin Bryant, who did not immediately respond to a request for comment.

In a statement, Sonnenfeld of YIMBY said SB9 has language that protects the rural quality of towns like Woodside. He described the attempt to use the Endangered Species Act as a shield against the law as a violation of state and federal laws and a cynical ploy. On Wednesday he sent a letter of complaint to the state Attorney General's Office.

"The State legislature did not intend for jurisdictions to declare themselves to be entirely within habitat for endangered species, and thus exempt from SB 9," he said. "This is a clear attempt by the town of Woodside to thwart housing laws in the middle of a housing emergency."



## Berkeley Housing Projects Development Round-Up

The building does not yet have a hearing date before the Zoning Adjustments Board. Kennedy said he hopes to break ground on the project a year from now.

### 2440 Shattuck Ave.

The downtown building that until last year housed a Dollar Tree store would be demolished for an eight-story, 40-unit apartment complex under plans submitted by the Austin Group, an East Bay developer.

Called The Lair, the project at the corner of Shattuck and Haste Street would be made up of one- to three-bedroom apartments and would also have no on-site parking. Three of the units would be affordable, and Austin Group President Bill Schrader said the firm anticipates paying about \$1 million into the city's affordable housing fund.

Schrader described the planned building as a "fraternal twin" to another Austin Group project that opened last August at 2510 Channing Way, called the Den, since both projects are the same size and have the same number of units. The complex would mainly cater to student renters, Schrader said.

"Until the student demand balances out, in and around campus is going to be a student market," he said.

The project has not yet been scheduled for a Zoning Adjustments Board hearing. The Austin Group hopes to

break ground this fall and open the building in time for the 2024-25 academic year.

### 2067 University Ave.

This 50-unit project on the former site of the Vietnamese restaurant Anh Hong is rising once again.

Granted city approval in 2017, the seven-story building was under construction in November 2020 when a six-alarm fire broke out at the site, damaging the structure to the point the city ordered its wooden upper floors demolished.

Work at the site resumed last year, and this week crews had rebuilt as far as the fifth floor. Berkeley Planning Director Jordan Klein said the rebuilt project will be the same as the original one.

The project's owner, David Lau, did not respond to a message seeking more information.



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# There Are Not 40,000 Vacant Homes in San Francisco

Socketsite.com, February 11, 2022

While it makes for good headlines and viral sound bites, the notion that there are “more than 40,000 vacant homes in San Francisco” is not only misleading but represents a fundamental misunderstanding, if not misrepresentation, of the underlying data and market at hand.

Yes, 40,458 units of housing in San Francisco were classified as “vacant” in the U.S. Census Bureau’s American Community Survey (ACS) for 2019. But the devil is in the details, methodology and footnotes.

First of all, an occupied unit is actually classified as “vacant” for the purposes of the ACS if the person living in the unit is planning to move within two months of being surveyed.

On top of that, a unit that has been already been rented to a new tenant, but the new tenant hasn’t yet completed their move, is also considered “vacant.” And along with all the units that are actively being offered for rent or for sale, over a quarter of the “vacant” units in San Francisco are simply markers of normal turnover.

Second homes, including pieds-à-terre maintained by people who work in the city but live elsewhere, are also classified as “vacant,” even if they’re frequently occupied during the week or on weekends. And 21 percent of those “40,000 vacant units in San Francisco” were seasonal, recreational, or occasional use (i.e., second/third/fourth) homes.

Twenty (20) percent of the “40,000 vacant units in San Francisco” are units that hadn’t yet been reoccupied since trading ownership, but that included units that were in the process of being renovated, either to flip, rent or be occupied by their new owners.

The remaining 32 percent of the “vacant” units in San Francisco included those that were occupied but used for corporate housing or *short-term rentals*; units that were in the process of undergoing needed repairs; units that were being prepared for a sale or change in ownership; and a host of “other” reasons as well.

All told, 10.0 percent of San Francisco’s housing units were classified as “vacant” per the ACS in 2019. And while that’s “up from 8.5 percent in 2015,” having dropped from 10.8 percent in 2010, it was right in line with a median vacancy rate of 9.7 percent for nine of San Francisco’s peer counties, per the City’s recent Residential Vacancy Report that was produced for Supervisor Preston.

Vacant San Francisco Housing Units by Reason and Category Definitions, 2019

| ACS Vacant Unit Category                  | 2019 Estimate |      | Definition   |
|---|---------------|------|--|
|   | #             | %    |  |
| For Rent                                  | 7,241         | 18%  | Vacant units offered for rent and vacant units listed for rent or for sale   |
| Rented, Not Occupied                      | 2,405         | 6%   | Vacant units that have been rented (i.e. compensation has been paid or agreed upon) but where the renter has not yet moved in.   |
| For Sale Only                             | 1,307         | 3%   | Vacant units offered for sale only (i.e. does not include vacant units that are listed for sale or for rent)   |
| Sold, Not Occupied                        | 8,039         | 20%  | Vacant units that have been sold but where the new owner has not yet moved in  |
| Seasonal, Recreational, or Occasional Use | 8,565         | 21%  | Vacant units used or intended for use part time or occasional use throughout the year. This includes units used seasonally or recreationally, such as second or non-primary housing units, and timeshares.   |
| Other Vacant                              | 12,991        | 32%  | Vacant units that don’t fall into any of the categories above. This can include units held vacant for personal or family reasons, units requiring or undergoing repair, corporate housing, units held for use by a caretaker or janitor, units subject to legal proceedings, units being kept vacant for a future sale, etc. |
| Total                                     | 40,458        | 100% |  |

Source: US Census Bureau, American Community Survey (1-year estimates, Table B25004); US Census Bureau, [2019 American Community Survey Subject Definitions](#)

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Source: US Census Bureau, American Community Survey (1-year estimates, Table B25004); US Census Bureau, [2019 American Community Survey Subject Definitions](#)



## Bill Seeks to Speed Up Housing for Colleges

Dustin Gardiner, San Francisco Chronicle, February 23, 2022

SACRAMENTO — State Sen. Scott Wiener says a housing and homelessness crisis on California's college campuses has become so dire that the state needs to add a major exemption to its premier environmental law to speed up construction.

Wiener unveiled a bill that would streamline housing projects by allowing the UC, CSU and community college systems to skip the lengthy review process required under the California Environmental Quality Act.

That law — commonly known as CEQA — has often been used to delay or block campus housing projects. Wiener has long called for reform, but the effort took on a new order of magnitude last week after UC Berkeley sent thousands of potential students letters informing them that the prestigious university could be forced to cap its enrollment for fall semester due to a court order.

"What's happening at Berkeley is the most extreme example of something that's been happening at UC for a long time," Wiener, D-San Francisco, told The Chronicle. "The rate of homelessness among college students is off the charts. It's a moral failure."

The California Supreme Court is set to decide whether to uphold a lower court's order that the university cap

enrollment at 42,237 — its fall 2020 enrollment — and halt the construction of two buildings intended to house faculty and add classroom space, which neighbors said would increase noise, traffic and other quality-of-life problems in the area.

The case against Berkeley was brought by a neighborhood group that complained the university has, for years, added more and more students into a finite amount of space with little regard for the impact that boisterous young people have on the area.

Wiener said it's a poignant example of how anti-housing groups have used CEQA as a pretext to oppose projects for reasons that are unrelated to the environment. He said building on-campus housing is actually beneficial to the environment because it encourages students and professors to live where they learn and work. The alternative, he said, is more urban sprawl that increases emissions from vehicle traffic and pushes people to build in wildfire-prone areas.

"CEQA is all too often used for goals that have nothing to do with the environment," Wiener said. "It's an extremely important law, but its tentacles have grown so dramati-

*continued on page 10*

*Starting in Spring 2022, BPOA & BRHC will be hosting quarterly Member Mixers at Cornerstone Brewery, Shattuck @ Durant. First one is Thursday, May 19 at 5:00 pm.*

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

| DATE              | TOPIC   |
|-------------------|---|
| March 8, 3:00 pm  | 30 Minute Hot Topic: Complying with the Fair Chance Ordinance |
| March 10, 5:30 pm | Rental Housing Provider 101: A Course for New BPOA Members    |
| March 17, 3:00 pm | Nailing the Move-In Process: Avoiding Future Costly Mistakes  |
| May 19, 5:00 pm   | The Inaugural Quarterly Member Mixer at Cornerstone Brewery   |

***And...check out our Landlord 101 series. Whether you're new to rental housing or just want to brush up on your skills, we'll teach you the basics of being a landlord in Berkeley. This series is available for playback in the members-only Content Library on our website.***

## Possible CEQA Exemption for Colleges

cally in the last 50 years that CEQA, in some ways, is the law that swallowed California.”

His bill, SB886, would allow the state’s three public college systems to build housing without conducting CEQA reviews. Colleges and universities would only be allowed to claim the exemption for housing projects on land they own, provided it’s not farmland, wetlands or in a very high fire-risk zone. The schools would also be required to use skilled construction workers who are paid prevailing wages.

Wiener’s proposal is likely to draw fierce opposition from neighborhood groups who argue many popular UC and CSU campuses have grown so quickly that they’ve created burdens for surrounding communities, with noise, increased traffic and litter.

Enrollment in California’s public colleges has soared over the last few decades, particularly at high-demand schools like Berkeley. Housing construction hasn’t kept pace — about 5% of UC students are homeless and an additional 11% live in hotels or transitional housing, according to a report by the Legislative Analyst’s Office.

### QUOTE OF THE MONTH

*Government isn’t a good way to solve problems ... [G]overnment is concerned mostly with self-perpetuation and is subject to fantastic ideas about its own capabilities. ... [G]overnment is wasteful of the nation’s resources, immune to common sense and subject to pressure from every half-organized bouquet of assholes. ... [G]overnment is distrustful of and disrespectful toward average Americans while being easily gulled by Americans with money, influence or fame.*

— P.J. O’Rourke (November 14, 1947 - February 15, 2022)

### MARCH ZOOM MEETINGS

**30 Minute Hot Topic: Complying with the Fair Chance Ordinance**  
with Krista Gulbransen, Executive Director, BPOA & BRHC

Tuesday, March 8, 3:00 pm

**Rental Housing Provider 101: A Course for New BPOA Members**  
with Krista Gulbransen, Executive Director, BPOA & BRHC

Thursday, March 10, 5:30 pm

**Nailing the Move-In Process: Avoiding Future Costly Mistakes**  
with Tiffany VanBuren, Deputy Director, BPOA

Thursday, March 17, 3:00 pm

*Starting in May BPOA & BRHC will be hosting quarterly Member Mixers  
at Cornerstone Brewery in Berkeley. Stay tuned!*

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

### BPOA WORKSHOPS — Go Beyond the Basics

# UC Berkeley Disputes Limit on Enrollment

Bob Egelko, San Francisco Chronicle, February 15, 2022

UC Berkeley is asking the state Supreme Court to block a judge's order that required the school to freeze its enrollment while courts review an off-campus construction project opposed by neighborhood groups.

In a suit by a group called Save Berkeley's Neighborhoods challenging the university's \$126 million plan to build classrooms and faculty housing alongside the campus, an Alameda County Superior Court judge suspended the project in August and also ordered UC Berkeley to limit its 2022-23 enrollment to 42,237 undergraduates and graduate students, the level approved the previous year.

Judge Brad Seligman said UC Berkeley's legally required study of the environmental impact of the construction project failed to mention the effects of increased enrollment on housing and homelessness in Berkeley's poorest neighborhoods, as well as traffic, noise and increasing local costs for police, fire protection and health services. University officials said they believed they could satisfy the judge's concerns about the construction project, which would replace a parking structure at 2698 Hearst Ave. with faculty housing and expanded classrooms for the Goldman School of Public Policy. But they contended Seligman had overreached by freezing enrollment, and asked higher courts late last month to lift his order while the case continued.

The First District Court of Appeal in San Francisco left the freeze in place Thursday and said UC Berkeley's "lengthy delay" in seeking a stay contradicted its claim of urgency. On Monday, the university asked the state's high court to intervene and remove the freeze on Berkeley enrollment.

The enrollment limit would have "a catastrophic impact on UC Berkeley's ability to admit low-income, under-represented students," the school's lawyers told the court. They said Seligman had exceeded his authority by ordering an enrollment freeze in a suit over a construction project that had little connection to the number of students at UC Berkeley.

Because of the coronavirus, the university said in a statement, enrollment fell in 2020-21, and basing the freeze on that level would reduce undergraduate enrollment by 3,050 — "a tragic outcome for thousands of students who have worked incredibly hard to gain admission." Graduate student enrollment will be unaffected because most of the admissions notices have already been sent, the university said.

The loss in tuition revenue would be \$57 million, reducing the school's budget for instruction, financial aid and other services, the university said.

The university also contended its planned construction project would cause no environmental harm to the neighborhood. Its appeal of Seligman's ruling will be heard by the appellate court later this year.

In response, Save Berkeley's Neighborhoods said the university has been increasing its enrollment for years — from 31,800 in 2005 to 43,125 last year — without providing adequate housing or considering the impact on the surrounding community.

"UC Berkeley has repeatedly rebuffed SBN's offers to reach a reasonable settlement concerning UC's failure to house its additional students," Phil Bokovoy, the neighborhood group's president, said in a statement. "In addition, UC Berkeley students themselves have repeatedly said that UC should stop increasing enrollment until it can provide housing for its students."

In its order last Thursday refusing to lift the freeze, the appeals court noted that Seligman had issued his ruling Aug. 23 and the university had filed its appeal October 18, but did not seek a stay until Jan. 28.

"Other than to claim that either they or their counsel did not understand the nature of the judgment from which the appeal is taken, they offer no explanation for this lengthy delay," said Presiding Justice James Humes and Rochelle East, a San Francisco Superior Court judge temporarily assigned to the appellate court.



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of Oppression over the last one hundred years. Earlier human history was no less brutal.

I owe one thing to Donald Trump. He has given me a visceral appreciation of how it's done. We saw in Trump a failed effort to subvert the constitution. I personally believe that Trump is a would-be, if not a wannabe brutalist. He is sufficiently ignorant, uncaring, mean and self-righteous to join the nefarious list above. We as a country are more immune than most, but, apparently, not invulnerable.

If you'd told me about the prospect of the internet and social media forty years ago, I would have predicted these advances in human communication to be politically beneficial. With universal access to all sides of all issues, the truth would prevail, right? Silly me. Who knew how many truths there were?

What do you do about Putin and his ilk? It is rare that one government would, at great expense and great risk, liberate the citizens of another country if that first country was not also a direct threat. Primarily, the defeat of oppression falls on the oppressed. Easier said than done. I have no suggestion for the individual citizens of North Korea. They have virtually no personal resources and little ability to organize. The state has left them in ignorance and their activities are viciously controlled.

But Russia? Jeff Bezos and Elon Musk have recently played leapfrog as to who is the richest man on the planet. I found a list of the 250 richest persons in the world and was curious as to which one topped the list. The answer: neither. At the top of the list was Vladimir Putin at \$200 billion. His salary as President of Russia is less than \$150,000 a year. If he saved \$100,000 a year, it would take two million years to amass \$200 billion. And yet he has never had a job other than as a public servant. Does he file an income tax return? Does he list his occupation as kleptocrat?

It's not saying much but the Russians are not nearly as oppressed as the North Koreans. It is heartening to see brave Russians in Red Square condemning the actions of their government on-camera. If Putin hasn't stolen enough of the country's resources or hasn't so far sufficiently embarrassed the Russian people, maybe they deserve him.

We, however, do not. I would hope his actions in Ukraine would make him a world pariah, welcome nowhere under any circumstances. He sits on a lot of gas and oil and nukes and so has leverage in dealing with the rest of the world. Somehow, the world has got to get past that. Nukes or no nukes, the world cannot allow Putin to pick off one country after another by threatening Armageddon. This guy is a thug and, one way or another, he has got to go.

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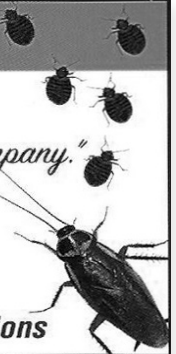
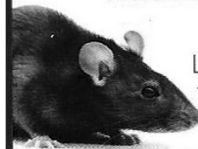
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*30-Minute Hot Topic:  
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Tuesday, March 8, 3:00 pm

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Thursday, March 10, 5:30 pm

*Nailing the Move-In Process:  
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Thursday, March 17, 3:00 pm

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