

MAY
2022



The Advocate for Berkeley's Rental Housing Providers

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2041 Bancroft Way, Suite 203, Berkeley, CA • www.bpoa.org

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Graffiti

Mark Tarses, President, BPOA

I have written about graffiti vandalism before, but this is such a huge problem here in Berkeley, it is worth talking about again. The problem is that graffiti vandals do not fear getting caught here. In most cities, people convicted of graffiti vandalism are prosecuted and do jail time, but in Berkeley, juries tend to think of graffiti vandals as 'street artists' and your building is their canvas! What should you do if your building is graffitied?

1. **REMOVE IT ASAP!** This is the single most important thing to do. Graffiti attracts more graffiti. Graffiti taggers like to see their work and show it off to others. If it's not there when they return, a tagger will move on to another property where the owner doesn't remove graffiti quickly. Remember, graffiti vandalism is not a crime of profit. A graffiti vandal receives no financial benefit from his crime. Why would a person risk arrest or getting beaten up by an angry homeowner if his graffiti is gone in an hour?
2. **Buy graffiti remover.** Keep a bottle of graffiti remover on hand. You can find it at most hardware stores. This stuff works, depending on the surface and type of paint.
3. **Paint.** Keep paint on hand that matches exterior surfaces that are accessible by graffiti taggers. Keep a can of Kilz on hand as well, in case a graffiti tagger uses paint that bleeds through your cover-up paint.
4. **Porous surfaces.** It can be hard, and sometimes impossible to remove graffiti from porous surfaces like unpainted brick or concrete. First, try graffiti remover. Spray the surface with graffiti remover and scrape with a wire brush. A garden hose with a fine-spray nozzle will help.
5. **Anti-graffiti coating.** If you have exposed brick or masonry walls or unpainted wood fences, consider covering them with clear anti-graffiti coating. It is available at most paint stores. Once a surface is covered with anti-graffiti coating, you can usually just hose off any graffiti that is put there. If you want to see what anti-graffiti coating looks like, go to a BART station. They coat their concrete walls with it.

Ask your tenants for help. Ask your tenants to report graffiti to you as soon as they see it so you can remove it immediately.

MAY EVENTS

*Cost-Saving Resources for
Energy Efficient Rentals*

Thursday, May 12, 3:00 pm

Rats, Bedbugs & Roaches Oh My!

Wednesday, May 18, 3:00 pm

Social Member Mixer

Thursday, May 19, 5:00-8:00 pm

See pages 9 & 10 for details

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Editorial

Rent Board Representation For Property Owners?

Albert Sukoff, Editor

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

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About the Newsletter

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

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

Direct comments and material to our Bancroft Way office or to bpoa@bpoa.org

I am pretty sure that I am the oldest member of the BPOA Board of Directors. I continue on the Board hoping to serve as best I can as the institutional memory of over four decades of rent regulation in Berkeley. I remember when the Board was appointed rather than elected. I remember the initial registration fee was \$12/unit. I remember when the law did not apply to owner-occupied properties with four units or fewer. I remember when Capital Improvement Increases were possible. I remember the Birkenfeld and the Searle decisions.

What I clearly remember is when the election for rent board commissioners was competitive. I remember when the tenant activists gained a rent board majority when the swing seat went to a pro-tenant candidate by one vote in a recount. Tenant activists took control of the whole program by one singular vote for one commissioner. An owner I talked to told me that he stood in line to vote for an hour the morning of that election and finally went home without voting.

The first election that resulted in the board having a nine-zero tenant activist majority was particularly disappointing. The moderate slate was particularly impressive including a retired professor from Cal and other serious people. The campaign was well run. Candidates on the other side were youngish, political neophytes with little experience and a so-called progressive agenda. In those days, the Berkeley Voice called the two sides in Berkeley the Mods and the Progs. Party politics in Berkeley was more defined then.

The so-called Progressives have not lost a rent board seat since. Some inchoate opposition has formed every two years, but victory has been elusive. In 2020, the moderate candidate who did the best still lost by a couple thousand votes to the overtly pro-tenant candidate who did the worst. I believe the problem is that when it comes to rent control, there is a tripartite electorate: renters, owners and homeowners. Clearly there is an obvious imbalance with many more renters than owners. But that is not the whole story.

What has made these elections unwinnable are the homeowners. They are definitionally disinterested and constitutionally uninterested. They are disinterested because they do not pay for the rent control program. They are uninterested because the immediate effect of rent control on their lives is subtle and perceived to be minimal. Multiple candidates make these elections even more difficult. A *yes/no* choice is easy enough but homeowners either do not care, or do not care enough, to remember to vote for these five names, not those five names. Thousands fewer voters vote in rent board races than vote.

Moderate candidates for rent board would stand little chance if they were to proclaim that they are against rent control as a concept. Moderates therefore run as candidates who would do a better job administering the program, or who would be politically less contentious, or who would be less wasteful. Insufficiently interested to spend even a modicum of time to discern the differences between the candidates, a typical homeowner is likely to pass on voting for rent board commissioners. Those disinclined to make an effort could, at a glance, conclude there is no difference.

So... is there any way for moderates to take control of the rent board? There are five seats open in 2022. (It alternates between four and five.) Could a brilliant

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❖ THE COALITION CORNER ❖

Krista Gulbransen, BRHC Executive Director

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

View from the Capitol

Policy committee hearings have been proceeding. Notably, the Wicks vaccine mandate, AB 1993, was pulled by the author and is no longer moving this year. Additionally, several bills have been amended and are now priority bills, including, but not limited to, a bill to create a \$500 excise tax, a new Ellis Act bill, and TOPA legislation. It is safe to say we are facing more onerous bills this year than over the last few years. It promises to be a busy year indeed. Below, please find several key bills that our state association, the California Rental Housing Association (CalRHA) has been engaged on. Our positions on the bill are noted.

- **AB 916 (Salas)**
Sponsored by CalRHA — currently pending in the Senate
- **AB 1710 (Lee)**
Light Pollution — Circumvents the Building Standards Commission and seeks to legislate residential and light emitting diodes (LED) that create “light pollution” at night **(Opposed)**
- **AB 1738 (Boerner Horvath)**
EV Policy — EV Charging Station Mandate in Existing Buildings **(Opposed)**
- **AB 1791 (Nazarian)**
Taxation — \$500 Excise Tax on Residential Units **(Opposed)**
- **AB 1858 (Quirk-Silva)**
Substandard Buildings — Includes violation of municipal codes; authorizes a court to order a different amount of relocation compensation based on equity to adequately compensate a tenant for relocation costs and temporary living expenses during the repairs. **(Opposed)**
- **AB 2050 (Lee)**
Ellis Act — Prohibit Ellis Act evictions if owner has not owned the property for at least five years. **(Opposed)**
- **AB 2053 (Lee)**
Social Housing Act — Creates the Social Housing Act and establishes the quasi-governmental authority, California Housing Authority, to produce and acquire

social housing developments for the purpose of eliminating the gap between housing production and regional housing needs. **(Opposed)**

- **AB 2203 (Rivas)**
Credit Report in Rental Housing Application — Prohibits requiring a consumer credit report as part of the application process for a rental housing accommodation in instances where there is a government rent subsidy. **(Opposed)**
- **AB 2469 (Wicks)**
Rent Registry — Would create a rent registry to collect information from landlords including, the address and owners of a rental property, the number and type of rooms in the rental property, and information related to the payments collected and the duration of tenancies. **(Opposed)**
- **AB 2710 (Kalra)**
New Right for Tenants — Tenant Opportunity to Purchase Act for owners. **(Opposed)**
- **SB 843 (Glazer)**
Renter's Tax Credit — Passed the Senate Governance and Finance Committee. **(Support)**
- **SB 897 (Weickowski)**
ADU Height Limit — Increases limit from 16' to 25'. Passed the Senate Housing Committee. **(Support)**
- **SB 1017 (Eggman)**
Lease Termination: Abuse or Violence — Prohibits a landlord from terminating or failing to renew a tenancy based on an act of abuse or violence against a tenant, a tenant's immediate family member, or tenant's household. **(Opposed)**
- **SB 1133 (Archuleta)**
Price Gouging: State of Emergency: Specified Housing Exclusion — Excludes specific categories of housing from these provisions, including housing that was issued a certificate of occupancy for residential use within the 3 months preceding a proclamation of a state of emergency or declaration of local emergency or within the duration of the proclamation or declaration. **(Support)**

New Legislation on Tenant Organizing and Tenant Associations

City and County of San Francisco website, posted April 07, 2022

Update requires landlords to allow tenant organizing activities in building common areas

The Board of Supervisors and Mayor of San Francisco recently passed legislation that gives tenants enhanced rights to organize within their buildings (informally referred to as the “Tenant Right-To-Organize legislation” or “Tenant-At-Home Ordinance”). While this new law does not amend the Rent Ordinance, it does amend Chapter 49A of the Administrative Code (titled “Residential Tenant Communications”) and defines certain tenant organizing activities as “housing services” that a landlord must provide, as described below. The full text of Chapter 49A is available in the “Laws and Regulations” tab found on the homepage of the Rent Board’s website.

Prior law

Chapter 49A of the Administrative Code (titled “Residential Tenant Communications”), which was effective in 2004, states in part that a landlord may not prohibit tenants from using building common areas to distribute literature on behalf of a tenants’ association or other tenants’ organization regarding issues of common interest or concern to other tenants.

What does this legislation change?

The Right-To-Organize legislation amends Chapter 49A to require landlords to allow tenant organizing activities in building common areas - not just literature distribution, but also other activities regarding issues of “common concern” such as initiating contact (e.g., door-to-door surveys) to ascertain interest in forming a tenant association, and allowing organizing activities and participation by non-resident advocates or guests. The law also states that tenants in buildings with five or more rental units (unless the landlord is a 501(c)(3) non-profit) may form “Tenant Associations” by securing the approval of a majority of the occupied units in the building. Tenant associations may hold regular meetings open to all building occupants and elect officers that serve for two-year terms. The landlord may request once every three years that the Tenant Association reconfirm that it still has the support of the majority of occupied units. Landlords and Tenant Associations will be required to meet and confer with each other in good faith. On written request of the Tenant Association, the landlord (or their representative) *must* attend at least one Tenant Association meeting every three months.

How does this legislation relate to the Rent Ordinance?

The legislation states that a tenant’s right to have organizing activities in their building is a “housing service” under the Rent Ordinance, and that a landlord’s failure to allow organizing activities or to meet and confer with a Tenant Association in good faith may be the basis to support a substantial decrease in housing services petition for a rent reduction. For more information about filing a tenant petition alleging a substantial decrease in housing services, please refer to **Rent Board Info-To-Go Topic No. 352** (<https://sfrb.org/topic-no-352-substantial-decrease-housing-services-petitions>).

When does the law go into effect?

The amendments to Chapter 49A are effective on April 11, 2022. In addition, for lease agreements entered into or amended on or after January 1, 2022, the tenant may not waive their right to engage in Organizing Activities as set forth in Chapter 49A and any provision of a lease agreement that purports to waive a tenant’s right to engage in Organizing Activities is of no effect.

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SF Approves Nation's Strongest Set of Tenant Union Protections

Staff, The Real Deal, February 17, 2022

Landlords must meet tenant unions up to four times per year

San Francisco approved what it calls the nation's strongest rules to protect tenant unions.

The Board of Supervisors voted unanimously to pass an ordinance that requires landlords to recognize the rights of tenants to organize in buildings with five or more units, the San Francisco Business Times reported. The rule, introduced by District 3 Supervisor Aaron Peskin, will also require landlords to meet tenant associations up to four times a year.

Any tenants with a landlord who won't follow the ordinance will be able to file for a rent reduction with San Francisco's Rent Board. While tenants already have the right to organize, Peskin's rule goes further by letting tenants petition for rent reductions if landlords refuse to meet with them.

"That's where this goes a step further than the existing laws in other parts of the country, where tenants have

the right to organize, but the landlord does not have the responsibility to bargain," Brad Hirn, lead organizer for the Housing Rights Committee of San Francisco, which worked with Peskin's office on the legislation said. "Here, they do." The goal is to correct an imbalance of power between tenant and landlord, Hirn said.

The San Francisco Apartment Association, which represents about 4,500 landlords across the city, has opposed the ordinance.

"The legislation assumes that landlords and tenants are at odds, and that tenants need to collectively bargain for basic rights," Charley Goss, government and community affairs manager for SFAA, said. "That's just not the reality for most tenants in San Francisco."

The group doesn't plan to fight the legislation, which is expected to take effect April 9.

Berkeley Rent Board Director, Deemed 'Severely' Underpaid, Receives 24% Raise

Supriya Yelimeli, Berkeleyside, April 11, 2022

The new Berkeley Rent Stabilization Board director has received a 24% raise after the board decided DeSeana Williams was being "severely" underpaid in comparison to other department heads in Berkeley.

Williams was hired in November 2021 to lead the board. Her initial employment agreement listed salary as \$200,366, but the rent board decided in March to push that starting salary to \$247,874.

The former rent board director, Jay Kelekian, made \$220,696 when he left in 2020, and the position was vacant for 18 months after he was pushed out.

The rent board met in closed session on March 17 to discuss Williams' performance and salary, and agreed that she had "exceeded expectations" for the position. The board cited pay parity among department heads as a reason for the change. (The city human resources director receives \$242,148, the parks director \$251,844 and the public works director \$257,184, according to public documents.)

The board unanimously agreed to increase Williams' salary, and keep all other terms of her contract the same.

Her contract will allow for additional 5% raises after six-month and one-year performance evaluations.

Several Berkeley city staff have received raises in the last year, including the City Manager Dee Williams-Ridley, whose pay jumped 28% from \$301,428 per year to \$386,160 per year after a performance evaluation in October 2021.

Berkeley residents also approved a ballot measure last year to increase pay for Mayor Jesse Arreguin and the City Council by 75% — from \$67,599 to \$107,300 for the mayor and from \$38,695 to \$67,599 for the council.

Kelekian, the previous rent board director, left after a former employee filed a complaint alleging she'd experienced "inappropriate and harassing" conduct and later faced retaliation when she tried to report it. Berkeleyside obtained a settlement agreement in February 2021 that strongly suggested Kelekian was the person alleged to have retaliated against the employee. Kelekian retired early after nine commissioners on the board placed him on leave. He had worked for the city for 36 years, including 19 years at the rent board.

Complying with Berkeley's Exterior Elevated Elements Program

Dan Cronk is the Founder & President of Deck and Balcony Inspections, Inc. and has over forty years of experience in the construction industry. He operates as a certified structural inspector and general contractor.

The deadline to comply with the Exterior Elevated Elements (E3) Inspection Program is May 31, 2022. If you haven't complied yet, you're at risk of fines and code enforcement action!

With the passage of the state's own law (SB 721) owners are now strapped with two laws and two requirements. The deadline to comply with Berkeley's law is May 31, 2022.

Let's explore the requirements of Berkeley's law and its inspection standards to make sure effected buildings comply.

What Should I Know?

Berkeley's Housing Code requires weather-exposed elevated elements to be inspected and certified every five years. The ordinance passed in July 2015 after the Library Gardens balcony collapse and the first date for compliance was January 14, 2016.

The program's purpose is to identify wood-framed elements that have been damaged by fungus, insects, or other wood-destroying organisms.

The program also seeks to identify compromised steel-framed elements, ensure load-bearing elements are structurally sound, and facilitate any needed repairs — before such issues threaten life and safety.

Who is Affected by this Program?

The law affects all Group R-1 or R-2 buildings with exterior elevated elements and all residential buildings with three or more dwelling or sleeping units.

According to Berkeley's E3 definition, affected elements include "all elevated decks, balconies, landings, stairway systems, walkways, guardrails, handrails, or any parts that are exposed to weather and with a walking surface more than 6 feet above grade/ground."

The program applies to all such elements, regardless of when they were built.

However, structural systems constructed of reinforced concrete are exempt from the program, as are E3s (such as roofs) located in areas only accessible to maintenance personnel.

What are the Inspection Requirements?

There are two inspection components under the E3 program: a comprehensive condition assessment of the E3's structural elements and a condition assessment of waterproofing systems. Here's a detailed breakdown of each:

The Structural Screening

- A licensed professional will visually review all E3s on the property during the structural screening.
- The licensed professional must select at least 15% of a building's E3s for inspection and create investigative openings in those E3s.
- The inspection expert will examine the E3 for wood-destroying pests, organisms, or corrosion. If found, the inspector will initiate a more comprehensive Tier 2 evaluation (View the E3 guidelines to learn more about Tier 2 inspections).
- Once the inspection is finished, the inspector will patch investigative openings to match the existing surface.

The Waterproofing System Screening

- At a minimum, an initial screening of an E3s waterproofing system will include a visual review of exposed surfaces.
- If the inspector notes minor waterproofing defects that have NOT caused water intrusion or triggered a Tier 2 evaluation, the defects will be reported to the building owner with recommended maintenance tasks.
- If no significant defects are found, a Certification form will be filed with the City's Housing Code Enforcement Office.

Who Can Perform an Inspection?

Like SB-721, the law requires inspections performed by licensed professionals including: licensed general contractors; licensed (branch 3) structural pest control operators; licensed architects; and licensed civil engineers and licensed structural engineers.

Any professional performing an E3 inspection must have a current and clear license to practice in California.

If I Comply with Berkeley's E3 Program, Am I Automatically Compliant with California's SB 721 Law?

NO! SB-721 and The City of Berkeley's Exterior Elevated Elements Inspection Program are different laws with different requirements.

Firms like Deck & Balcony Inspections can help you comply with both. An expert building inspector will understand the inspection requirements of both laws and can help you stay in compliance and avoid fines. We can help provide comprehensive, minimally invasive inspections that help keep your building safe, sturdy, and in compliance with California balcony laws.

Top 10 Bay Area Cities for Rent Increases

Table: Lauren Hepler/SF Chronicle Source: Apartment List

Percent change in median rent from Feb. 2021 to Feb. 2022

CITY	% ANNUAL INCREASE	1-BR RENT	2-BR RENT
San Mateo	17%	\$2,370	\$3,220
San Francisco	16%	\$2,340	\$2,710
Union City	15%	\$2,430	\$2,520
Berkeley	13%	\$1,760	\$2,260
Redwood City	13%	\$2,270	\$2,900
Pleasanton	12%	\$2,260	\$3,090
Alameda	11%	\$2,080	\$2,510
Fremont	11%	\$2,520	\$2,930
Walnut Creek	8%	\$2,110	\$2,410
San Leandro	8%	\$1,720	\$2,340



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Tiffany Van Buren, BPOA Deputy Director

Rental Housing Safety Program Annual Inspections Due July 1, 2022

Suppose your tenants, who've lived in your property for the last two years, have just given written notice of their intent to vacate in sixty-days' time. You haven't been in the unit since last year's RHSP Inspection, at which time you noted they weren't the best at housekeeping. The stovetop was greasy, the kitchen walls were food splattered, the floors needed mopping and they had a lot of framed art hanging on their walls throughout the unit, violating your "no holes in the walls" rule. Understandably, you have some concerns about the condition they'll return the unit in and how much it will cost you to prepare the unit for re-rental. You might be thinking, "Thank goodness, I have their security deposit!" What you might not know is that you cannot withhold any part of their security deposit unless you follow the law.

California Civil Code 1950.5, which governs security deposits, states that tenants have the right to an inspection prior to moving out, aka, "Preliminary Inspection", no earlier than two-weeks prior to the termination date of the lease. What this means from the perspective of tenant is that they'll have the opportunity to remedy any defects before moving out to prevent deductions from their deposit. It's also step one for the landlord of having the lawful right to withhold funds for damages, but it's only step one, so what is step two? After you have conducted the inspection, you must furnish the tenants with an itemized statement of all damages and the associated costs to remedy them. This isn't always easy to calculate, but unless you intend to withhold \$125.00 or less, it is mandatory to provide figures with your description of the damages. You only have 21-days from their move-out date to refund their deposit funds, including a letter of disposition and receipts for repair work, so you must be prepared to act immediately. On the rare occasion that a tenant elects to waive their right to this inspection, you'll still need to furnish them with a deposit disposition and receipts, unless you're withholding less than \$126.00.

To start the ball rolling on the preliminary inspection, once you've received a move-out notice, serve your tenants with the Notice of Right to Inspection Prior to Termination of Tenancy, which can be found in our Forms library.

Having personally conducted oodles of preliminary inspections, here are a few helpful tips!

- **Be prompt. Everyone deserves to have their time respected.**
- **Have a copy of their Move-In Condition checklist with you!**
- **Have your Move-In Condition photos handy for reference!**
- **Know what your handyman charges as their hourly rate**
- **Clearly communicate your expectations!**
- **Understand that you cannot deduct for "Ordinary Wear & Tear"**
- **Take photos and written notes; don't rely on your memory.**

After the inspection, gather your notes and photos and draft a letter to your tenants. Explain your observations, communicate your expectations, and create a statement of the work that is needed and how much it'll cost if you must arrange the work yourself.

If you need more guidance or have questions on how to perform the preliminary move-out inspection, please contact tiffany@bpoa.org or 510-525-3666.

Do You Have a Building with 5-49 Units?

The Turner Center for Housing Innovation at UC Berkeley is currently working on a nationwide, confidential survey of owners of small to mid-sized rental properties (properties with 5-49 units) and are looking for individuals to pilot the survey.

The goal of the project is to learn about the experiences of people who own and/or manage these properties and to identify challenges and opportunities that can be shared with policymakers who have influence over this part of the housing market.

If you're interested in being part of the study, send an email to bpoa@bpoa.org with subject line: Turner Study.

Students In Your Building? Move Out Guidance for Owners & Residents

Cal Move Out 2022

It's that time of year again. Avoid fines up to \$1000 for illegal dumping during Cal Move Out. Property owners and managers have an important role in ensuring that public health and safety are protected as students move out at the end of the academic year. Any objects that are dumped on the curb are a violation of City policy and a public safety hazard.

Tips to avoid fines:

- Call the City (510) 981-7270 for pickups
- Order extra curbside pickup or short-term dumpsters
- Schedule free bulky waste pick up (1-4 unit properties)
- Schedule free curbside mattress pick up (1-9 unit properties)
- Purchase prepaid trash or plant debris bags at the **Transfer Station** or **Ace Hardware**
- Visit the City's **Zero Waste webpage** for additional information on the City's waste and recycling services (mattresses, short-term dumpsters, bulky item collection, etc.)

Tips for recycling and reusing:

- Sort your waste: Use your curbside bins for recycling and compost
- Recycle most electronic devices for free with ewasteCollective.org
- Tell student tenants to visit **CalMoveOut.com** — a website designed by students, for students — to learn about how to donate (or claim) reusable furniture and household items and have a sustainable Move Out
- Check the RE:Source Guide at **www.StopWaste.org** for local reuse, repair, recycle & safe disposal options for everything from batteries & bicycles to clothes & furniture
- Spread the following points to all tenants!

Please share the following information with your tenants who are moving out:

- Safety First! Do NOT dump unwanted items or furniture on the curb. Materials left on the curb pose a risk to community members. It's illegal to leave materials on the curb and can result in imprisonment or hefty fines.
- Plan ahead. Make a plan for what you will do with your furniture and unwanted items before your lease expires.
- Donation resources. Check out RE:Source Guide at **www.StopWaste.org** for a list of places that are still accepting donations. Unopened food can be donated at **BerkeleyFoodNetwork.org**
- Dispose of waste properly. See the Ecology Center's sorting guide and tips for keeping curbside recycling safe. Drop off up to 2 mattresses and 2 electronics per visit at the **Berkeley Transfer Station** for free
- Visit **CalMoveOut.com** — a website designed by students, for students — for more tips and resources about a sustainable Move Out
- Take advantage of Cooperative Reuse, a student-led initiative to give reusable household items a new home. Reusable furniture and mattresses collected and made available, May 20-30 at the SW parking lot of Clark Kerr. Visit **CalMoveOut.com** for more information



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Why Office-To-Apartment Conversions Usually Don't Pencil Out

Ashley Fahey, Editor, *The National Observer: Real Estate Edition*, April 13, 2022

One of the biggest topics among city economic development officials is whether conversions of office buildings can solve two issues most U.S. cities are facing: the potential for adoption of hybrid or remote work to leave some office buildings empty, and a lack of housing inventory.

But converting office buildings into apartments or condos is not a simple feat. That's why cities like Washington, D.C., are mulling incentives programs to entice more real estate developers to take on conversions.

A recent analysis by Moody's Analytics found not only is it difficult to pull off an office-to-apartment conversion, it may be not feasible for the majority of office buildings in a given city.

Moody's specifically looked at New York in its recent analysis, and found about 3% - 35 of the nearly 1,100 New York City office buildings Moody's tracks - would meet characteristics of potentially viable apartment conversions. Most of those are Class B or C office buildings.

Kevin Fagan, senior director and head of CRE economic analysis at Moody's who worked on the study, said there's been a groundswell of discussion around converting potentially functionally obsolescent properties into, especially, new housing, as rental rates in places like New York continue to soar.

New York, in particular, faces a potential higher propensity for continued work-from-home, because of its relatively high cost of living, reliance on mass transportation to get from home to work and because the types of jobs based in New York offices, including financial and professional services, could potentially work remotely, Fagan continued.

Other cities have different demand drivers that could impact whether office-to-apartment conversions make sense. The analysis didn't delve into other cities but, Fagan said, each city and even submarket has its own dynamics, although the fundamentals of making a conversion deal work remain the same.

There's several reasons why so few office buildings may make sense for a conversion, but chief among them are office valuations and physical layouts of buildings, according to Moody's.

Office values haven't sunk enough to make a conversion pencil out, according to Moody's. In 2021, the median apartment building in New York traded at \$434 per square foot. Meanwhile, the cost to convert offices to an

average apartment building is about \$100 to \$200 per square foot.

If a project requires \$150 per square foot in costs, plus a 15% profit margin of \$23 per square foot, a developer will need to purchase an office building for conversion at \$262 per square foot. In 2021, the median office transaction price in New York was \$542 per square foot, and only about 20% traded at \$262 per square foot or lower.

Fagan said, on average, office buildings would have to sell at a decreased value of 30% to 40% to make sense as an apartment conversion.

Vacancy and rental rates are also included in Moody's analysis, as are size and shape of buildings. Because of the different building requirements of office versus residential buildings, converting some office buildings - even ones that have a lower value - into apartments isn't efficient.

Steven Paynter, office buildings leader and principal at San Francisco-based design and architecture firm Gensler, previously told *The Business Journals* he had developed an algorithm to determine which office buildings are the best candidates for conversion into other uses. It found some 60% of office buildings are poor candidates for conversions into residential.

Apartment depths tend to max out around 40 or 50 feet, according to Moody's. An office building with deep floor plates beyond 100 to 120 feet wide, after accounting for elevator and mechanical cores, might not be usable in a housing-conversion scenario.

So much also depends on where a potentially obsolete office building is located. Conversion of a seven-story office building in a suburban submarket won't necessarily make sense for a residential conversion, for example, Fagan said.

"This is such an idiosyncratic analysis," he continued. "Maybe that office park is relatively close to a university doing well...that office park might be suitable for university living."

And although much speculation continues to be made about the future of the office, it's difficult to say with certainty which buildings, and when, could be adversely impacted by a move to remote work. Fagan noted commercial-mortgage backed securities loans backed by office properties have remained around 2% or 3% throughout the pandemic.

continued on next page

NO-COST MATTRESS RECYCLING FOR UNWANTED MATTRESSES

What Property Managers Should Know

Moving is stressful. When a tenant isn't sure how to dispose of something they aren't planning to take with them, it adds to the frustration. Property managers can help tenants rest easy when it comes to their mattresses and box springs.

Help Tenants Access Mattress Recycling Council's Bye Bye Mattress program

The Mattress Recycling Council's Bye Bye Mattress program is recycling mattresses, futon mattresses and box springs dropped off at the Berkeley Transfer Station and through the city's curbside collection program.

MRC can provide education materials in a variety of languages for property managers to share with tenants.

Mattress Recycling Council's Commercial Volume Program Helps Property Managers

Property managers can drop off mattresses, futon mattresses and box springs that they've collected from tenants, or have found improperly disposed of or abandoned on their property, at designated locations. Those with at least 100 items can work with MRC to transport them to a recycler. For more information, contact: Tim Stockett, tstockett@mrc-us.org.



Visit ByeByeMattress.com to learn more

Ellis Act Evictions Will Continue in Berkeley, Despite The City's Attempt to Block

Supriya Yelimeli, Berkeleyside, March 31, 2022

Berkeley tenants will still be protected from the majority of eviction

Berkeley's attempt to freeze Ellis Act evictions during the COVID-19 pandemic will not be successful because of a state bill signed into law by Lt. Gov. Eleni Kounalakis.

Berkeley was the first city in the state to create an eviction ordinance when the pandemic began in March 2020, closely followed by Oakland and Alameda County, mandating that no one can be evicted during the ongoing state of emergency.

The only exceptions are health and safety issues and the Ellis Act, which is protected by state law and invoked when an owner decides to take a property off the rental market for at least five years.

Berkeley's City Council had approved an amendment to its eviction ban in December 2020 to also halt Ellis Act evictions beginning Friday, but state Assembly Bill 2179, approved Thursday, will overrule that protection. All other anti-eviction protections for Berkeley renters will remain in place because they were established in March 2020, before the state created its own law.

AB 2179 protects residents statewide from eviction proceedings that were supposed to begin on April 1, pushing that date to July 1 as long as residents file for Emergency Rental Assistance Program (ERAP) funding by Thursday, March 31. Berkeley and Alameda County residents do not have to abide by this timeline, but legal language contained in the bill means the local Ellis Act amendment will not be valid.

"It's wrong that the state once again is preempting the ability for local governments to strengthen tenant protections," Mayor Jesse Arreguin said. "While I am glad that they extended the eviction moratorium for those tenants who are seeking ERAP funding, in Berkeley our eviction moratorium is still in effect and all tenants are protected."

Leah Simon-Weisberg, Berkeley rent board chair, said the city had hoped to preempt the controversial state law due to the city's emergency ordinance, which has been renewed several times as the COVID-19 pandemic continues. The emergency ordinance gave the city the power to stop all evictions, and Los Angeles and other Southern California cities also created amendments to block the Ellis Act.

But City Attorney Farimah Brown said the language in AB 2179 postpones any amendments to July 15, 2022, which could ultimately block the change indefinitely. Simon-Weisberg called the state law "cruel and unnecessary" because it doesn't add additional renter protections, while also interfering with those the city tried to provide during a pandemic.

Krista Gulbransen, executive director of the Berkeley Property Owner's Association, said the city was out of line to try and prohibit Ellis Act evictions in the first place. She said it's one of the only remaining venues for owners in the city to regain control of their properties.

"For a local jurisdiction to think that they can overrule a state law is beyond comprehension," Gulbransen said. Several jurisdictions throughout the state, like Oakland and Los Angeles, have also been sued over their eviction moratoriums during the pandemic.

Ellis Act evictions are not widespread in Berkeley, and as of the Rent Stabilization Board's most recent report, only seven had been filed in the city as of Jan. 1, 2020. Those properties are scattered throughout the city and range from single-family homes to multi-unit complexes.

At most of the properties, tenants already moved out before the Ellis Act deadline and a majority of units are currently vacant.

from page 10

Conversions

"The bottom isn't falling out of office by any means," he said, adding the Covid-related economic downturn has been the most benign cycle of the past several for rent and value declines. "There's a lot of trepidation and existential questions that are causing anxiety and apprehension."



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The Phony Debate Over Wall Street and the Housing Crisis

Josh Stephens, *Wall Street Journal*, April 4, 2021

I know next to nothing about commodities trading. But I do know this: people who buy pork bellies do not make bacon.

Whether they end up on a breakfast plate, on a bun, in a McRib, or as the centerpiece of a celebrity chef's paleo-inspired menu is immaterial to the people who own them. Investors buy commodities (or, rather, the financial idea of commodities) not for what the commodities do but for the simple fact that they exist. They profit when demand grows relative to supply or supply shrinks relative to demand.

To the person who owns pork bellies, the fewer pork bellies there are in the world the better.

How, then, is a house like bacon?

Investors buy a commodity when it is A) relatively scarce; and B) undervalued relative to its scarcity. Homes are undervalued when the cost of purchasing them is relatively less than the cost of renting them (accounting for carrying costs, value-add improvements, etc.). If investors can buy homes such that the value of rent exceeds the cost of ownership, then they make a profit. This is Real Estate Investing 101. (Not to be confused with Real Estate Developing 101.)

This capitalist axiom makes Los Angeles a ripe target, since the city has some of the highest rent-to-income rates in the country.

Over the past few years, concerns about "Wall Street ownership" of houses in California has grown increasingly serious, with the The Blackstone Group being the poster child for a handful of finance companies that buy up single-family homes, often in disadvantaged areas, only to kick out tenants and increase rents.

They charge as much rent as the market will bear, with little concern for communities and the urban fabric. As absentee landlords, they probably aren't going to get involved in civic life. Maybe they're outbidding real people who want their pieces of the American dream and would be better stewards thereof. Maybe they're going to distribute their profits to horrible human beings who each already own five homes of their own. They are surely displacing and evicting vulnerable residents.

All of those things are bad. But those bad things are all made possible by the opportunity that Blackstone has been given. And, yet, somehow the (justified) ire against Blackstone leads many stakeholders to conclude that, to

really stick it to The Man, we need to limit new development. This is completely backwards.

Blackstone deserves derision. Unfortunately, much of the derision comes from a loose alliance of anti-growth homeowners and far-left, anti-Wall Street activists that, rather than solve the problem on which Blackstone is capitalizing, plays right into Blackstone's hands.

The 80,000 or so homes in Blackstone's nationwide portfolio and the few thousand homes in its California portfolio do not drive the 3.5 million-unit Los Angeles market. Blackstone did not create a shortage of 3 million units statewide (give or take). Blackstone did not impose restrictive zoning laws. Blackstone did not kill California's redevelopment system. Blackstone did not drive up rents in the 2010s when recession-stricken millennials emerged out of their parents' basements.

Blackstone did not create California's insane real estate market. It is *capitalizing* on California's insane real estate market.

The housing market is complex. But, fundamentally, the way to decouple speculation and commodification from housing — whether you own one, ten, or 10,000 houses — is to make housing less scarce.

That is, generally speaking, what the YIMBY movement is trying to do. It's what many planners in California are trying to do. It's even what some elected officials are trying to do, at the state and, sometimes, at the local levels. But it's rarely what incumbent homeowners are trying to do.

Many homeowners are their own little Blackstones. Many of the same people who decry the purchase of thousands of homes by Wall Street are the same people who protest the development of new homes in their neighborhoods. Why? Sure, some of them care — a little — about "neighborhood character." But California's NIMBY movement has not endured the decades, beginning with its Prop. 13 temper tantrum in 1978, because of neighborhood character. It's because they don't want to endanger their property values.

Last year's SB 50, this year's SB 9 and SB 10, and other municipal- and state-level pro-density regulations warrant plenty of scrutiny and criticism. All's fair in politics. But, in the debate over growth, Blackstone is a red herring.

See, Blackstone is not a developer. It's a *landlord*.

continued on page 16

UC Berkeley Unveils Transformational Vision for Its Campus

Sarah Klearman, San Francisco Business Times, April 14, 2022

If all goes according to plan, parts of UC Berkeley's 1,095-acre campus will undergo a major transformation in coming years. The university highlighted the changes in its recently released its 2022 master campus plan, its first in nearly two decades.

The plan, which serves as a collection of recommendations rather than a concrete blueprint, is meant to be used in tandem with the university's 2021 Long Range Development Plan. The LRPD, approved by the UC Board of Regents last July, calls for the addition of up to eight million square feet of new academic and residential space and 11,730 new university-owned beds for students and faculty.

While the long-range plan does not specify where on UC Berkeley's campus that new development would rise — or in what form — the master plan makes the university's vision a little clearer. It outlines nearly a dozen new residential projects and nearly as many new academic buildings that could rise on university-owned land over the next decade or two, plus general improvements to be made to various parts of campus.

Most of the specific projects outlined by the plan are "very much conceptual in nature" and years off from happening, according to Kyle Gibson, spokesperson for UC Berkeley Capital Strategies. They will need to be proposed and approved as individual projects before they can be fully realized, he said. Among the projects included in UCB's residential pipeline:

- *Clark Kerr Campus redevelopment, a residential project that would include between 2,400 and 2,650 beds*
- *The redevelopment of the Oxford Tract, an existing 4.5-acre plot of land home to open space, greenhouses and research space, into a residential project to include between 1,000 and 2,000 beds*
- *The Channing-Ellsworth redevelopment, a residential project on an existing 1.3-acre parcel home to tennis courts and surface parking that could raise between 2,000 and 3,000 beds*
- *The redevelopment of Unit 3, an existing complex of residents halls with approximately 1,400 beds, into a larger residential project with between 1,800 and 2,000 new beds*
- *Beverly Cleary Hall redevelopment, a project that would TK the existing 240-bed residence hall and replace it with a new upgraded project with between 240 and 500 beds*

Some of those projects may not take shape for another decade, including the project proposed for the Clark Kerr Campus, a nearby parcel that formerly housed a school for the blind. Terms of UC Berkeley's 1982 purchase of the property forbids the school from altering the buildings at the site, except in the case of seismic deficiency, until 2032. Still, the plan is designed to be flexible and adaptable, Gibson said, and to set a kind of baseline for the campus's long-term future.

Join Us for Quarterly Social Mixers with Fellow Members

BPOA & BRHC will host the first mixer Thursday, May 19, 5:00-8:00 pm. Join us for drinks and appetizers at Cornerstone Brewery, Shattuck @ Durant.

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

DATE	TOPIC
Wednesday, May 12, 3:00 pm	Cost-Saving Resources for Energy Efficient Rentals
Wednesday, May 18, 3:00 pm	Rats, Bedbugs & Roaches Oh My!
Wednesday, May 19, 5:00 pm	The Inaugural Quarterly Member Mixer at Cornerstone Brewery
Thursday, June 9, 3:00 pm	Enforcing Lease Terms Through Tenant Compliance
Wednesday, June 15, 3:00pm	Fair Housing & Reasonable Accommodations for Rental Housing Providers
Thursday, June 23, 12:00 pm	Lunchtime Legal Q&A

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.

Report: Bay Area Sees Apartment Construction Despite Pandemic

Metropolitan Transportation Commission, August 26, 2021

Despite the pandemic and the high cost of lumber, the Bay Area is seeing increases in apartment construction this year in both the San Francisco and San Jose metro areas, where a combined total of 13,000 new units are expected to enter the market, according to a new report from RENTCafé .

Among the data points:

- **San Jose Metro** is set to increase its number of new apartments by 79% compared to 2020, the second highest jump in the nation. The **San Francisco** area is also witnessing a strong 36% increase.
- When discussing number of units, neither **San Francisco** nor **San Jose** metro areas are among the top 10 in the nation, but both areas are experiencing a 5-year high in projected new apartments - 7,872 and 5,625, respectively.
- **Oakland** is the hottest market for apartment construction, with more than 3,168 new units to be completed. San Francisco proper is set to deliver about half that number, 1,521.
- **San Jose** leads the rest of its metro with 2,175 projected deliveries. **Mountain View** follows with 1,714 new units.

Better Late than Never

On April 1, U.S. Census Bureau Director Robert Santos will join the National Archives and Records Administration (NARA) for a virtual event celebrating the release of population records from the 1950 Census.

— from the email release by the Census Bureau

QUOTE OF THE MONTH

*Those who can make you believe
in absurdities can make you
commit atrocities!*

— Voltaire

Got it!

— Vladimir Putin

MAY ZOOM MEETINGS

Cost-Saving Resources for Energy Efficient Rentals
with Chris Hunter, Bay Area Regional Energy Network (BayREN)

Thursday, May 12, 3:00 pm

Rats, Bedbugs & Roaches Oh My!
with Helmut Tutass, Bayside Pest Elimination

Wednesday, May 18, 3:00 pm

Social Member Mixer
Cornerstone Brewery, 2367 Shattuck Ave @ Durant
Thursday, May 19, 5:00-8:00 pm

*Our First Member Mixer is coming on May 19th
at Cornerstone Brewery in Berkeley at 5:00pm*

Check the calendar at www.bpoa.org/events for information & registration

BPOA WORKSHOPS — Go Beyond the Basics

campaign, well run and well financed, win the day? Unlikely. Alternatively, however, I think there might be a way to get deserved representation of the board. (Interestingly enough, appointed boards elsewhere mandate representation for both tenants and owners.) How might this happen?

First, without being so disingenuous as to proclaim support or even neutrality about rent control, accept it as a *fait accompli* in Berkeley and run on a platform of fairness. Berkeley owners deserve representation.

Second, run openly and unapologetically as property owners just wanting a seat at the table.

Third, only run two, maybe three candidates for the five seats. This emphasizes that we are not seeking control and makes the voters task easier — only two names to remember. If the candidates were named Lewis-and-Clark or Laurel-and-Hardy or Adam-and-Eve or Romeo-and-Juliet, so much the better. But not very likely.

Fourth, find strong, articulate candidates committed to the program. In past years, the moderate candidates have been self-selected; individuals putting themselves forward as willing to run. Some have been very good; others have not. While some elections in the past have been well run, they have never been well conceived. The candidates were never a team.

Fifth, concentrate on homeowners. They are the key to winning. Demonstrate the rent board's failings but without unnecessary vitriol. The board excesses are well appreci-

ated by the cognoscenti in Berkeley. Let the less-involved voters know how poorly run the program is, but stress the fairness issue. Make this an election about fairness — not about administration or political philosophy or cronyism — but about simple fairness.

Sixth, take a stab at the now-numerous tenants in Berkeley's many new buildings. Show them that their rents are higher because rents for long-term Berkeley tenants are artificially lower. A \$700 rent for a well-employed Berkeley tenant in a rent-controlled apartment would contrast painfully with their uncontrolled \$3,000 rent.

Could this strategy get owners seats on the board? I think it could. I also think repeating the efforts of previous years would just get us the same result. Is it worth all the effort for two seats on a nine-member board? I think it is. There have been solo owners on the board on the board and things were better for us. Inez Watts or Judy Hunt made a difference. We had a better idea of what was going on. At the very least, we had someone in the room where it happens. Sounds like a spy but you can't be a spy as an elected public official openly doing the public's business in a supposedly transparent process.

So... do we make a serious effort to get owner representation on the Berkeley Rent Stabilization Board? If you like this approach, please indicate your support. If you have a better idea, let us hear from you. If you can recommend prospective candidates, please do so. Hoping to hear from you...



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Bay Area Rents Inch Back To Pre-Pandemic Levels

TRD Staff, March 04, 2022

Bay Area rents are among few major metros that haven't fully recovered

Bay Area rents are approaching pre-pandemic levels at last.

San Mateo rents are 17 percent above February 2021, the San Francisco Chronicle reported, citing data from Apartment List. Landlords are asking \$2,370 for a one-bedroom and \$3,220 for two.

In San Francisco, one-bedrooms are going for a median of \$2,340 and two-bedrooms for \$2,710, a 16 percent increase. Rents are up 15 percent in Union City and 13 percent in Berkeley and Redwood City.

"We're really kind of officially in the beginning of the busy rental season," Rob Warnock, a San Francisco-based senior research associate at Apartment List, told the Chronicle. "The sort of desperation that property managers had to fill vacant units, that's probably, if not already gone, on its way out."

The Bay Area is the only major metro whose rents have yet to recover from the pandemic. San Francisco and San Jose are still about 5 percent below March 2020.

from page 12 *UC Berkeley Vision*

As I've written before, landlords and developers do completely different things and have completely different interests. With its pile of cash, Blackstone can scoop up homes by the thousands. It doesn't need new development. It doesn't need to wait years for entitlements or battle neighbors at community meetings. In fact, Blackstone has been making off like a bandit while stakeholders have been making speeches and planners have been patiently tearing their hair out.

California has more humans than bedrooms, by a margin in the millions. To not build just to spite Blackstone is like not planting crops when people are starving.

The best way to de-commoditize housing is simple: make more of it. If you truly hate Blackstone, you should want to see cranes and backhoes everywhere. More homes and more housing choice means more aggregate supply and less demand for the units on offer by any given landlord.

I don't know what the price of bacon is going to be tomorrow. I do know that, when Californians bring it home, I want more homes for them to bring it to.

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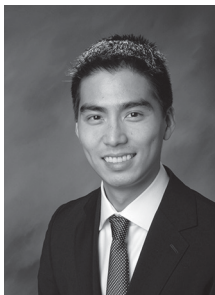
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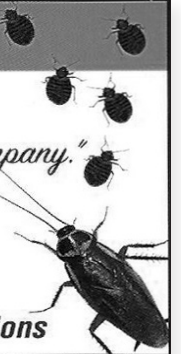
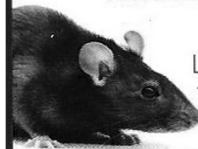
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