

The Advocate for Berkeley's Rental Housing Providers

Founded 1980 • Charter Member, California Rental Housing Association 2041 Bancroft Way, Suite 203, Berkeley, CA • www.bpoa.org

About Door Locks

Mark Tarses, President, BPOA

Remember, under California law, you have to change or re-key exterior door locks when new tenants move in.

- 1. Don't buy the cheapest door locks. Good door locks are only \$10 more than cheap ones.
- 2. Don't rekey locks replace them. Door locks are easy to replace in just a few minutes with a cordless drill, and new locks are better than old ones.
- **3.** All your door locks, both interior and exterior, should be nickel or stainless steel. Shiny brass door locks were popular in the 1970s, but now they look dated.
- **4.** One key should open all the door locks. If there is a back door as well as a front door, get two boxes of locks with the same key code number on them.
- **5.** Record the key code number when you change locks. Very few landlords do this, but you should! If a tenant locks himself out when you aren't available, just give him the key code number. You should be able to access a list of these numbers with your cell phone. Your tenant can take that number to a lock-smith, and they can make a key for him. That will cost your tenant a lot less than having a locksmith visit his apartment and make a key. Schlage puts their code numbers on the keys. Some brands have no code numbers. This is one of the reasons I like Schlage.
- **6.** Pick one style of door locks you like and use it everywhere. I like Schalage Georgian. The door locks inside an apartment should all look the same.
- **7.** Keep extra interior door locks on hand. If a bedroom door lock breaks, you shouldn't have to go to hardware stores looking for a matching replacement.
- **8.** If a tenant calls me on the phone and asks me to give somebody a key to his apartment, I tell the tenant that I can't do that. If a tenant wants me to give a key or let somebody into his apartment, I want that in writing from the tenant first.
- **9.** Your leases should prohibit tenants from rekeying or replacing locks without your written permission and giving you a copy of the new key. You need to be able to get into an apartment in a genuine emergency.

JULY EVENTS

Creative Ways to Offset Capital Gains Wednesday, July 6, 2022, 3:00 pm

Rats, Bedbugs & Roaches Oh My! Thursday, July 7, 3:00 pm

COMING IN SEPTEMBER

Social Member Mixer Thursday, September 8, 5:00-7:00 pm

See pages 13 & 14 for details & more events!

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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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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

Editorial

...**And Then They Make it Worse** Albert Sukoff, Editor

The perennial housing crisis in California is virtually 100% attributable to land use controls in the State. This is the primary mechanism by which government has limited the supply of both rental and owned housing which has resulted in high prices for both. When two buyers want something and there exists only one, the item will go to the party willing to pay more and the price will be slightly above what the person willing to pay less is willing to pay. That's Supply and Demand. It's Economics 101.

Having created this problem, government feels compelled to solve it. The problem is real and politicians feel they must do something. Generally, what they do only makes it worse. Much of what they do is gestural. It may have no effect or at best make a miniscule difference, but it feels good. It's Feel Good politics.

Take the latest announcement on housing from the City of Berkeley. After participating in subsidized housing efforts which cost \$750,000 a unit, the City now believes that it is cheaper to buy existing rental housing. That means they are after the housing you now own — read the article herein on page 6, it outlines this pending effort.

For me, this sound all too familiar. The idea is not new. It was a cornerstone of the 1976 treatise *The Cities' Wealth: Programs for Community Economic Control in Berkeley, California*, a proposal by local progressives at the time to turn Berkeley into a quasi-socialist paradise with the City running all kinds of things then in private hands. One chapter deals with City involvement in banking, utilities, commerce and insurance. Housing, however, gets its own chapter.

Rent control is presented as a way to force — okay, incentivize — owners to sell their rental property to the City. The authors described the program as follows:

By enacting rent control and thereby restricting increases in future rents, a city may actually reduce the present value of a property. This is essentially community expropriation in favor of tenants.

...Since other private owners would be unlikely to buy the property in such an unfavorable climate, the city could purchase the property at below-market prices and aid tenants in converting the property to cooperative ownership. (The Cities' Wealth, page 20)

This idea has been around for many years. The crux of the concept in *The Cities' Wealth* is the limited-equity cooperative, an ownership form in which co-op owners buy in but agree to sell their interest at the end of their tenancy with no equity increase other than enough to cover any diminished value of their initial dollar investment.

There are very few limited-equity co-ops in Berkeley. One has to wonder why in Berkeley, of all places in the United States, there are so few housing co-ops (and co-operatively owned businesses).

Of course, government could purchase and run rental housing directly. In fact, they do. The City touts the purchase of a property wherein the rents will be \$2,432/month for a one-bedroom. That's a market rent. An yet the Mayor *continued on page 13*

***** 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.

Golden Duplex & ADU Eviction Protection Exemptions Threatened

On July 12, City Council will vote in a decision on whether to advance the eradication of eviction protection exemptions for Golden Duplex and Accessory Dwelling Unit (ADU) owners. The exemption for Golden Duplexes was first granted by voter initiative in 1980. New construction ADUs were granted exemptions in a ballot measure in 2018 in an effort to spur production of ADUs.

But now the mayor thinks ALL tenants in ALL units in Berkeley should have eviction protections. This means owners who live on site with their tenants in a Golden Duplex or ADU parcel will only be able to evict for "good cause" as outlined in the Rent Stabilization and Just Cause ordinance. Many of these owners have been operating without the exemptions since the inception of the Eviction Moratorium in March of 2020. This has resulted in awful stories in which an owner has been unable to terminate the tenancy of a tenant that has not paid rent or is causing harm to the property or the owner's mental well-being. We have heard of owners who have had to move off the property and into a relative's home in order to escape the anguish they are experiencing.

While the exemption from rent control is not under threat, many small owners have expressed that the exemption from eviction protections means far more to them. There is no doubt in our mind that living on site with your tenant is a far different experience than if you live off site. When something goes awry, an owner wants to ability to terminate the tenancy more easily. Unfortunately, despite the cries of the social housing activists, terminating a tenancy for "good cause" is not easy and is always, always expensive. It leaves small owners with few options other than to continue to endure the tenancy that went sour.

BPOA recently conducted a survey of members who have Golden Duplexes or ADUs. Fifty percent of owners said that they would "definitely not rent" if the law went into effect and 30 percent said they would be "significantly less likely to rent" out their unit. Forty-seven percent of respondents said they have been renting their units for more than 10 years and 45 percent say they rent for below market rate. This means a good chunk of more affordable housing could vanish from the market in the years following a change in the Rent Stabilization Ordinance.

BPOA will be actively fighting this proposal. It is imperative that you come out and speak on behalf of your fellow owners who live on site with their tenants. You can get all the updates at www.BerkeleyRentRegulations.com — or keep an eye out for emails from us.

Vacancy Tax on Empty Units

Councilmember Kate Harrison is at it again. She believes Berkeley is littered with "corporate owners that purposefully keep units off the rental market, exacerbating our housing crisis." Like Oakland, she wants to propose a tax on vacant units (those that have been vacant for one year or more) at a cost of \$3,000 for single family homes/condos/townhomes and \$6,000 for two units and up. That is a per unit fee and would double after the first year.

The Berkeley Rental Housing Coalition (the political and legal arm of the BPOA) has been hard at work poking holes in the data being spewed from Councilmember Harrison, as well as speaking with other Councilmembers so they fully understand the harm this would do to small owners. Some council members believe that cost of administering the ordinance wouldn't be worth the relatively small number of units that it would push back onto the market. We want to encourage Councilmembers to take into consideration the efficient use of taxpayer money. Some Councilmembers had similar concerns about the Tenant Opportunity to Purchase Act (TOPA) and these are concerns taxpayers need to speak up about.

We would love to hear from our members about why they are keeping their unit off the market. Contact us at bpoa@ bpoa.org with your story. Your name and information will be kept confidential and will only be used to better understand the impact this tax could have on BPOA members.

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 BHRC employs the feet-onthe-ground who hold the elected officials' feet to the fire. To lend your support, contact Executive Director Krista Gulbransen, krista@bpoa.org or (510) 304-3575.

Sarah Ravani, Berkeleyside, June 13, 2022

Berkeley voters could decide in November whether to tax thousands of vacant homes in a bid to address the region's housing crisis. Vice Mayor Kate Harrison will introduce the proposal at Tuesday's City Council. In this file photo, Harrison poses for a portrait on May 8, 2020.

Berkeley voters could decide in November whether to tax thousands of vacant homes in a bid to address the region's housing crisis by pressuring property owners into renting their properties. If landlords choose to keep the units vacant, they'd be taxed to raise money for affordable housing.

Vice Mayor Kate Harrison will introduce a proposal at Tuesday's City Council meeting that would ask voters to weigh in on whether to tax the owners of multiunit buildings, single-family homes and condominiums owned by a corporation or LLC. Accessory dwelling units will be exempt. Units must have been empty for more than a year.

Harrison said the proposal will help address the city's housing crisis because it will encourage property owners to rent out empty units.

If Harrison's proposal makes the ballot, Berkeley would follow similar measures or proposals raised in Oakland and San Francisco. Oakland's vacant property tax took effect in 2019 and made about \$7 million in its first year of implementation. San Francisco is considering a similar measure for the November ballot.

Berkeley — along with the rest of the Bay Area and most of the state — has produced far too little housing to keep up with population growth over the last few decades. But while the city is going through a small housing boom with towers up to 25 stories currently in the works for downtown and plans for residential buildings up to 12 stories at the city's two BART stations — it could take years for those units to become available for rent. Even still, they won't make up for decades of underbuilding, so officials are looking at other options to fill the need.

The proposal would tax smaller properties \$3,000 per year and tax larger properties \$6,000 per year. If the units stay vacant for more than two years, the tax would double to \$6,000 and \$12,000 respectively. Extensions will be granted for units under renovation or going through probate. If approved, the tax could generate between \$4.5 million and \$9 million annually in the third year.

It's unclear exactly how many units would be freed up if the measure goes to the voters and they approve it, but a staff report estimates it could also result in 1,000 vacant units becoming available for rent.

Berkeley has 4,725 vacant housing units, according to the staff report, citing census data, but some are under renovation, and some owners might choose to pay the fine rather than rent their units. The city has 52,331 rental units in total.

Property owners say the proposal is ill-timed. The pandemic's eviction moratorium, which is still in effect in Alameda County, has hurt many landlords who have one to two rental units, said Krista Gulbransen, the executive director of the Berkeley Property Owners Association, which has 700 members.

"People are very scared to rent out if they are not a big owner," Gulbransen said. "We've got the pandemic and an eviction moratorium that continues to be in place, and people are even more hesitant to get into rental situations."

Gulbransen said her group could support a proposal that targets only large and corporate landlords.

"We think if you have an available unit and it works for you to rent it out, you should," she said. "Having said that, though, this is a problem. It tries to control the way people use their property. That's problematic for us."

Housing experts say the vacant-property tax is a relatively new strategy to add a modest number of units to the rental market in the Bay Area but the tax alone isn't going to address huge housing shortages and affordability problems.

David Garcia, a policy director at UC Berkeley's Terner Center for Housing Innovation, said the tax is unlikely to result in millions of dollars of revenue and hundreds of homes back on the rental market. Instead, it will likely result in one or the other.

"It is one tool in a tool box that needs to include many other things," Garcia said. "It's certainly not going to create the kinds of units needed to really address the shortfall of overall supply."

Garcia applauded Berkeley's other efforts to address housing affordability — with its move to eventually end single-family zoning and building housing at BART.

Harrison said her proposal is inspired by a similar measure in Vancouver, British Columbia, which introduced the Empty Homes Tax in 2017.

Sarah Klearman, San Francisco Business Times, June 8, 2022

Until early this year, Berkeley hadn't so much as received an application for a building as tall as 25 stories. As of June 7, three different developers have said they'd like to move forward with projects that will rise at least that high in the city's downtown.

NX Ventures submitted plans Tuesday for a 26-story mixed-use tower at 1974-1988 Shattuck Ave., a threeparcel, 0.34-acre lot about a block away from the westernmost edge of the UC Berkeley's campus.

The project is the second proposed in as many days that would stand 25 stories or taller. We reported Tuesday that Core Spaces had unveiled plans for a 25-story tower at 2128 Oxford St., where it had previously proposed a 17-story project. NX and Core Spaces' plans come five months after PGIM proposed a 25-story, 264-foot tall project just a few blocks away at 2190 Shattuck Ave.

All three developers say they intend to use state density bonus law to get their projects to their respective proposed heights and densities. The law allows developers that provide a certain number of affordable units to build up to 50% more density than is allowed by local zoning regulations.

Berkeley's downtown has a height cap of 75 feet, but its downtown area plan includes five height exemptions for private development: three for buildings as tall as 180 feet and two for projects as tall as 120 feet. Berkeley's 16-story Residence Inn, which opened late last year, claimed one of the 180-foot exemptions; PGIM and Core Spaces have each said they intend to claim one of the remaining two, and then apply the density bonus law to reach 25 stories.

NX's project at 1974 Shattuck Ave, which is slated to include 297 units, sits in the outer core area of the downtown area plan, meaning it is eligible only for a 120-foot height exemption. NX Principal Nathan George confirmed in an interview Wednesday the project would seek to claim the last remaining 120-foot exemption provided by the plan for private developers. (The other was taken by Grosvenor's 12-story project at 1951 Shattuck, which broke ground this month.)

George said Wednesday that use of the density bonus plus the proposed configuration of 1974 Shattuck will allow it to reach 26 stories. The developer plans to include ground-floor retail and a restaurant on the top floor of the building, George said. He said NX hopes the building and that to-be-determined restaurant tenant will draw people from around the Bay Area to Berkeley.

"This is one of the most important intersections in Berkeley," he said of the choice to propose a high rise at the site. "If you're going to have the tallest or a tall building in Berkeley, this would be the spot to have it."

Developers in Berkeley are increasingly making use of density bonus law. When Berkeley's City Council last week set out to consider whether to rezone two BART stations in the city to accommodate up to seven stories of residential development or 12 stories, councilmembers unanimously voted for the seven-story option, noting the likelihood developers would density bonus law to build as tall as possible at the site.

"The cost of materials in construction is escalating," Berkeley Mayor Jesse Arreguín told me of the rezoning in May. "Building a steel-frame [high-rise] building is expensive. If you're going to do that, you may as well go as tall as you can, and get as many units as you can, to make the project pencil."

Berkeley has already seen that kind of logic take route: PGIM, for one, resubmitted its 25-story proposal for 2190 Shattuck after securing entitlements for an 18-story project at the same site 2019. It declined to discuss the updated proposal, but sources familiar with the project told me the redesign was in order to ensure the project remained economically viable.

NX's application, submitted by project architect Trachtenberg Architects, notes the project will require demolition of existing commercial structures at 1974-1988 Shattuck, but does not give further details about the developer's plans there. Property records show NX's George purchased the site for just less than \$2.1 million in 2014.

A *Berkeleyside* article from the time describes George as "one of a dozen people" who purchased 1974 Shattuck Ave. in the hopes of reviving Spats, a long-time bar that had operated on the site for about a half-century before shuttering in 2009. *Berkeleyside* wrote at the time that the team of buyers was also exploring the "longer-term" possibility of raising housing at the site.

NX has in recent months been one of Berkeley's most prolific developers: With the addition of 1974 Shattuck, its development pipeline now spans more than 1,500 units in the city, George said.

Nico Savidge, Berkeleyside, June 5, 2022

When the West Berkeley apartment complex that has been his home since the early 1990s went on the market, Stanley Glenn watched with trepidation as prospective buyers checked out the property.

"We thought they were going to kick us out," said Glenn, a retired grocery store worker who, along with his wife Weynshet Semawu, pays less than \$700 per month for their one-bedroom apartment on Tenth Street.

He'd heard plenty of stories about landlords buying properties and finding ways — legal or otherwise — to convince longtime tenants to move so they could lease apartments to new residents paying far higher rents. If that happened, Glenn feared, there was no way he could stay in Berkeley. He and Semawu would probably have to move "out to Stockton somewhere, or Modesto," Glenn said.

But instead of an investment firm looking to flip his apartment, the building on Tenth Street was bought by the Northern California Land Trust — an organization that has spent decades working to keep tenants like Glenn in their homes. Thanks in part to a \$1.6 million loan from the city of Berkeley, the land trust is now working to fix up the building while keeping Glenn's rent affordable.

His apartment complex is an example of what researchers and advocates describe as a particularly promising strategy to address the Bay Area's rising housing costs: buying existing buildings to preserve their low rents or turn them into affordable homes.

Compared to building new apartments from the ground up, "acquisition and rehabilitation" projects can offer a faster and less expensive way to create affordable housing, proponents say. But they haven't historically gotten as much public attention or funding.

That's starting to change in Berkeley, where city officials — working with land trusts and community organizations that have long pursued acquisitions — are ramping up their investment in the strategy. The city has provided \$16.1 million for four acquisition and rehabilitation projects in recent years, helping secure a total of 73 affordable apartments at Glenn's complex, a vacant apartment building in South Berkeley, a hotel in Northwest Berkeley and another apartment building in North Berkeley.

"The city has supported acquisitions before, but it's proliferating now," said Amy Davidson, the deputy director of Berkeley's Department of Health, Housing & Community Services. Much of the money has come from voters' approval of housing measures in 2016 and 2018, Davidson said, and it's been helped by massive new state investments in the strategy, all of which have "really allowed the city to expand the types of number of developments it's working on."

Faster Than New Construction

One reason California doesn't have anywhere near as much affordable housing as it needs is the sky-high cost of building those homes.

With a \$25 million price tag, the 34 income-restricted apartments for seniors at Berkeley's newest affordable housing development, Jordan Court, cost about \$735,000 apiece. That's far from unusual in an expensive region like the Bay Area — in 2019, each new unit of affordable housing built in Alameda County cost \$726,469 on average, according to a Bay Area Council Economic Institute analysis of data from the California Tax Credit Allocation Committee. A Los Angeles Times investigation in 2020 found projects that neared and passed \$1 million per unit.

It might take an affordable housing developer years to stitch together enough funding for a project, guide it through the approval process and build the structure.

Compare that to California's Project Homekey program, in which the state provided funding to help local agencies buy hotels and motels and convert them into apartments for unhoused residents.

An analysis of the program by UC Berkeley's Terner Center for Housing Innovation found 40% of properties bought during the first round of Homekey funding in 2020 were ready for tenants to move in within six months of being sold.

"The single biggest benefit is just the urgency and the speed by which you can get people housed," said Carolina Reid, the lead author of the Terner Center's report. "The prospect of being able to house people in three (or) six months, depending on the property, instead of three, four, five years is a really important part of the affordable housing toolkit."

"It can also be a lot cheaper," Reid added.

The \$800 million first round of the Homekey program allowed agencies across California to buy 94 properties, with just over 6,000 rooms, for a statewide average cost of less than \$150,000 per unit. Add in the cost to renovate rooms, and projects that turned hotels into permanent

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As always, you have questions; and these are the most common ones that we've fielded lately. But let's get the #1 query quickly out of the way by answering:

"We do not know when the city and county moratoriums will end."

OK, but am I allowed to give a yearly rental increase in the meantime?

There are generally no laws preventing regular rental increases pursuant to state or local limits. For units that are not rent controlled (ordinarily single-family homes and units built within the past 15 years), we suggest still being sensible. And to avoid any possibility of "price gouging" during a State of Emergency, any increase over 10% should come with an explanation to justify the need.

But the lawsuits to the moratoriums will change all of this soon, yes?

There are now at least two lawsuits filed against both Oakland and Alameda County. The reality is, unfortunately, that litigation does not move quickly, and we do not foresee a swift outcome. The attorneys in the first case hope to have their initial issue argued in July, but that does not necessarily mean any movement [on lifting the eviction moratorium]. There is also news that an unknown Alameda County city has filed suit to break from the moratorium, which is also a good sign. The real hope here is that the mere task of defending these actions will, at the least, cause the boards to reconsider these "emergency" laws.

Ugh. So, can I do *anything* about astronomical rent balances that continue to skyrocket?

With the moratorium now in its third year, it's time to reconsider strategies. Owners in Alameda County who are suffering with large, unpaid rental arrearages, or who have former renters that have absconded, may now want to contemplate recouping some of those losses through a collection action. The Alameda County moratorium allows owners to seek recovery for unpaid rent 12 months after it became due, meaning rents from 2020 through May 2021 are now fair game. A judgment in small claims court *cannot be used for an eviction*, and may not actually lead to any real financial recovery, but... it will hold the tenant responsible and create a bargaining chip for when an eviction lawsuit can finally be filed.



The Nuts & Bolts

Tiffany Van Buren, BPOA Deputy Director Writing a Vacancy Ad: Be Careful What You Say!

The summer rental season is in full swing and if you've received a notice of intent to vacate from a tenant, the time to start marketing is now. During last week's member education session, "Fair Housing and Reasonable Accommodations for Rental Housing Providers", attorney Steve Williams reminded rental housing providers to be careful of what they say in their listings. He explained that under federal, state, and local law, there are twenty-six currently protected "characteristics" (previously referred to as "classes"), and the list is growing every year. Using discriminatory language against any one of these protected characteristics could open you up to a discrimination lawsuit, so how do you write an ad that doesn't open you up to potential litigation? You choose your wording carefully.

Here is a sample ad. Can you spot the problems?

\$2600/mo. Spacious two-bedroom one-bath second floor walk-up apartment in North Berkeley

1234 Fictitious Street, Unit #5 is a large two-bedroom one-bathroom apartment in a safe, quiet, upper class, white neighborhood with excellent neighbors. The apartment is within walking distance to UC and First Congregational Church of Berkeley: perfect for female Christian students. Hardwood floors in the living area and both bedrooms, linoleum in the kitchen and bathroom. Each bedroom is 10'x10' and has a small closet. Bathroom has a shower stall. Kitchen has a gas range and a dishwasher.

The second is this: 'Love your neighbor as yourself.' There is no commandment greater than these.

Mark 12:31

Female Christian students will be given priority and will receive a \$500/mo. discounted rent for the first six months.

No pets, ESA, or Service Animals No Section 8 No marijuana use No young children No wheelchairs No applicants with a criminal record Maximum occupancy of two

Did you spot the problematic language?

• Declaring a location is "safe" or "quiet" or asserting that the neighbors are "excellent": Your assessment of safe, quiet, or excellent may not be someone else's. In addition, these are often used as coded language to describe neighborhoods that are predominately white, upscale, or child-free.

- "White, upper-class": discourages people of color, families, and working-class people from applying, which is discriminatory.
- References to religion, quoting religious texts, or noting the proximity to places of worship is discriminatory on so many levels. Just leave religion out of your listing.
- Banning of animals: Emotional Support Animals (ESA) and Service Animals are known as "Assistive Animals"; they are not considered "pets". A best practice is simply to state "pets are negotiable" in your listing. That way, disabled people with ESA or Service Animals aren't dissuaded from applying, and you can take individual pet requests into consideration. For more information about Assistive Animals, email us!
- Section 8: Berkeley's Anti Income Discrimination Ordinance, which went into effect in 2017, made it illegal to deny an applicant based on source of income alone. This includes ALL housing vouchers or subsidies. Leave references to vouchers or subsidies out of your listing.
- Marijuana: Because marijuana can be medically prescribed, you cannot ban its medicinal use on your property. Instead of saying, "no marijuana use", say. "No Smoking per Berkeley ordinance 7230 N.S."
- Under the Fair Housing Act, you cannot ban families with children from your property, period.
- You probably noticed that I described this unit as a "second floor walk-up". Though you cannot discriminate based on a disability that requires a wheelchair (or ANY disability, for that matter), this description informs the reader that this unit is not easily accessible to persons who use wheelchairs. Leave ANY AND ALL references to disabilities out of your listing.
- "Maximum Occupancy": Uniform housing code sets occupancy limits. These are calculated at a rate of 'two per bedroom, plus one'. Therefore, a two-bedroom apartment would have a max occupancy of five. It's okay to say, "the posted rent is based on a two-person occupancy", but you cannot set unlawful occupancy rates.

Sarah Ravani, San Francisco Chronicle, June 2, 2022

Oakland officials on Tuesday evening capped rent increases at 3% for rent-controlled apartments, effectively preventing landlords from raising rents by 6.7% starting in July, which had been on track to be one of the highest one-year rent increases in the city's history.

The City Council voted 6-1 for an ordinance to restrain the rent increase, with Noel Gallo voting against the proposal and Loren Taylor abstaining.

The move came amid strong support from tenants' rights advocates who said a massive rent increase could have a catastrophic impact on a city grappling with a rising homelessness crisis as many residents try to emerge from the pandemic downturn.

The ordinance, introduced by Council Member Carroll Fife, changes Oakland's rent increase formula to factor in 60% of the rise or fall in the Consumer Price Index, or limit rent hikes to a maximum 3% annually, whichever is lower. Last year's rent hike, coming as many struggled to stay afloat during job losses and economic hardship wrought by the coronavirus pandemic, was 1.9%.

Before the Tuesday vote, Fife said that renters faced an "unprecedented" major rent increase that would disproportionately impact Black and Latinx renters.

Cutting the size of that increase would result in the "best outcome for the entire city," Fife said. Fife called on Taylor to recuse himself from the vote because he is a landlord. Taylor, who is running for mayor, declined, prior to his abstention, and said his rental property is a single-family residence and "not applicable."

About 60% of Oakland residents are renters, and 51% of those households are very low-income, Fife said.

Oakland's current rent control covers most of the apartments in the city built before 1983. On July 1 of each year, landlords can implement "allowable rent increases," using a city formula that factors in inflation at a rate of 100% of annual change in the federal Consumer Price Index.

San Francisco and Berkeley also use their own rent control formulas, but factor in 60% or 65% of the national inflation rate. Residents there face lower increases this year, in the 2% range.

Dozens of people called into the council's meeting Tuesday for nearly three hours of public comment. Renters urged the council to approve the ordinance, saying that a nearly 7% rent increase next month could force them out of their homes. "We really don't need increases in rent for more people to become homeless," said Linda Warrick, a renter. "People who work every day with no cost-of-living increases can't afford housing even now. You are killing us here in Oakland."

Another caller said if the council allowed landlords the rent increase, it would hit "Oakland tenants like a bomb."

Amanda Prieto-Lara, with Oakland's Eviction Defense Center, commended Fife's proposal and said rapidly increasing rents could cause "mass gentrification" in the city.

Landlords, however, urged the council to reject Fife's proposal, calling it flawed.

M. Gabriel, a landlord in Oakland, said he hasn't raised rent in three years and it's not up to landlords to deal with Oakland's homelessness and housing crises.

"Housing is a right, but housing costs money to keep in place," Gabriel said. "Landlords cannot solve all of Oakland's social problems."

Another landlord, Adam Masri, said that under Fife's proposed cap, "We will never catch up with the rate of inflation," which is at about 8%.

"Eventually inflation will overtake us with this proposal and we will be destroyed by it," Masri said.

Property owners also expressed concerns that they would be unable to pay for repairs and energy costs.

Chanee Franklin Minor, director of the city's Rent Adjustment Program, said city programs can transfer repair costs and other increases to the tenant. She called the council's action "sound policy."

"We've heard directly from a lot of renters who are very fearful ... of becoming homeless," Minor said of a 6.7% rent hike.

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John King, San Francisco Chronicle, May 30, 2022 It's Going to Transform the City's Character

Visit central Berkeley and there are sights you expect to see: the Campanile rising serenely from the heart of campus. Students on the sidewalks, even after commencement. Aging men and women dressed as if it's still 1974. And then there's the unexpected — like a downtown housing boom that shows no sign of dying down. At least 10 apartment buildings ranging in height from five to 14 stories are under construction in downtown Berkeley, most of them within a block of the district's spine, Shattuck Avenue. An equal number are approved or under review, including a proposed 25-story housing tower that would be only 60 feet shorter than the Campanile — the city's tallest building.

Architecturally, let's be honest: None of them will make people forget Julia Morgan or Bernard Maybeck, whose atmospheric buildings of shingled wood and thick masonry enriched the local landscape a century ago. But as downtown's character is transformed, its two newest apartment buildings are worth checking out for another all-important reason — to gauge whether the newcomers connect with their surroundings in meaningful ways, particularly where the structure meets the ground.

"The interface between a building and the sidewalk," in the words of Berkeley architect and urban designer Dan Parolek. Or, as he also puts it, "the building from the knees down."

The latest addition is Identity Logan Park, which fills eight stories with 135 student apartments at the corner of Shattuck and Durant avenues, replacing half of a nowdemolished strip mall (the rest of the site will hold the second phase). The other, Aquatic Shattuck, opened last summer several blocks to the south at Carleton Street. The latter is a much better fit, and not because it's two stories smaller.

The difference starts on the ground, where the first floor notches back beneath each broad bay, a saw-tooth response to Shattuck's angled path that allows space for small patches of landscaping between the sidewalk and the building. Pulling back the ground floor from the property line also means the upper floors can extend over the sidewalk by as much as 3 feet.

All this sounds subtle, and it is, but the moves create an almost domestic tone for pedestrians along Shattuck. The building has a neighborly feel, no easy task at this scale, helped by trees that buffer the sidewalk from the street. The floors above offer a contemporary take on Berkeley's traditional stucco apartment buildings: The Aquatic lines up along Shattuck in four orderly bays above the strong recessed base, a vertical rhythm emphasized by black metal that frames the stacks of windows and extends out several inches from the muted tan facade.

The design by Trachtenberg Architects for developer Read Investments is subdued, no question. It also resembles five similar apartment buildings the team erected near the popular Fourth Street retail strip. En masse, things can get monotonous; here, next to a fire station built of concrete blocks, it's a sophisticated upgrade to the larger roadside scene.

Identity Logan Park, by contrast, feels arbitrary and detached. This one's flashier, with orange and white metal panels against a black stucco backdrop. It includes benches in a small corner plaza, a nice touch lacking at Aquatic Shattuck. Wonder of wonder, there even are retail tenants — a sweets shop and a bank that were retained from the strip mall.

Mostly, though, the building designed by Johnson Lyman Architects for developer Austin Group sits there like a crate of housing adorned with just enough surface "architecture" to get an OK from the city.

Retail spaces line the sidewalk with ample glass, but their flat design does nothing to pull you in. Around the corner on Bancroft, the final stretch of street frontage after the parking entrance is unadorned gray concrete, as if no one was paying attention.

The white and orange panels above were probably intended by the architects to break up the mass of the complex and add a little pizzazz. But the colored layers are so thin they look like applique; the depth hinted at in renderings is in short supply.

Quibbles aside, a colorful building at this scale fits downtown well, especially because Shattuck is a wide boulevard. With the campus two blocks to the east, and downtown's BART station a few blocks north, it's a natural place to add density and height.

There hasn't been much fuss about the downtown boom, perhaps because the Bay Area's housing crisis makes even die-hard Berkeleyites accept the need for change. There's opposition to UC's plan to build dorms on People's Park,

supportive housing cost about \$270,000 per unit on average.

Those costs are steeper in the Bay Area, however.

In April, the state announced Berkeley would receive \$16.4 million through Project Homekey to help pay for the acquisition of the Golden Bear Inn, a 44-room hotel at 1620 San Pablo Ave. Berkeley is chipping in another \$8.5 million for the purchase, which when combined with state funding means the complex will cost around \$565,000 per unit.

Rising construction costs are taking a toll on other acquisition efforts, which often require extensive renovations. In addition to a \$1.9 million purchase price, Northern California Land Trust expects to spend about \$2.4 million to fix up Glenn's complex on Tenth Street, with improvements like a full seismic retrofit, new electrical systems and other repairs to stairways, balconies and residents' apartments.

The land trust's executive director, Ian Winters, said buildings like the one on Tenth Street typically became affordable because their owners neglected maintenance and other upkeep, leaving them in rough shape.

"Rehab is markedly more affordable than new construction," Winters said. "But at the same time, if you're doing a good rehab ... it's not a Home Depot kitchen facelift and a quick coat of paint."

Once Scarce, Funding Now Increasing

Despite the potential advocates see in acquisitions to provide affordable housing, government funding has mainly been dedicated to building new projects — not buying existing apartments. Land trusts and other housing organizations have often struggled to find the funding they needed to make purchases on the open market, where they compete against other buyers.

"If you want to buy a property, you need a lot of money right at the front end, and that money hasn't always existed," Reid said.

Project Homekey marked a sea change at the state level, as California committed an "unprecedented" amount of funding to the acquisition strategy, according to Reid's report. Gov. Gavin Newsom expanded the program last year, dedicating another \$2.75 billion to help pay for hotel and motel acquisitions.

Berkeley was already moving in that direction when the Homekey project launched. Along with the funding it provided for the Tenth Street project, the city has also loaned \$2.1 million to rehabilitate eight vacant apartments on the property of a South Berkeley church, and another \$3.9 million to fund the purchase of a 13-unit apartment building on Solano Avenue, which is set to be completed this summer.

Both of those acquisitions received money through Berkeley's Small Sites program, which is modeled on a similar initiative in San Francisco that provides funding to buy or fix up smaller apartment buildings to preserve them as affordable housing.

Under the Small Sites model, any existing residents get to stay in their homes without the threat of being driven out by a rent hike or mass eviction — something tenants in the Solano Avenue building were facing before a land trust and the city got involved. As people choose to move elsewhere, income caps mean the apartments they leave behind will be set aside for low-income renters.

"We're ensuring long-term affordability," said Davidson.

Leaders of the McGee Avenue Baptist Church had long wanted to fix up the apartment complex the church owns on Stuart Street, especially as soaring housing costs pushed members of its historically Black congregation out of Berkeley and neighbors complained about the dilapidated buildings. But until the church received funding from the city, as well as assistance from the Bay Area Community Land Trust and Local Initiatives Support Corporation, its members didn't have the money or experience needed to pull off such an extensive project, said Michael Jones, chairman of the church's board.

"It actually felt like a godsend," Jones said. Without the extra funding and assistance, he said, "We would never have been able to get it done.

Projects Face Challenges, Limits

Like at the complex on Tenth Street, though, the effort to reopen McGee Avenue Baptist Church's apartments has faced the challenge of shoring up an aging building.

When Berkeley first got involved with the project in 2019, the city provided a \$1 million loan and hoped new tenants could move in within a year. Officials knew it wouldn't be easy to restore the buildings, which needed lead, asbestos and mold abatement work.

But the project wound up being even more costly than expected thanks to the pandemic and problems that arose once work began, which have stretched out the construction timeline and required Berkeley to double its loan amount. The complex's first new tenants are set to move in this summer.

from page 11

Experts also warn that organizations must figure out how to pay for ongoing maintenance and staffing needs to keep their buildings in good shape and, in some cases, provide support for residents, since the rent amounts paid by lower-income tenants are unlikely to cover all of those costs.

The Northern California Land Trust plans to spend \$2.4 million to fix up the Tenth Street apartment complex. The building needs extensive rehabilitation work, including a seismic retrofit and improvements to stairways and balconies.

These challenges can mean that if they aren't done right, acquisition projects might bring vulnerable tenants into dated and substandard housing. A San Francisco Chronicle investigation of residential hotels leased to provide housing for thousands of formerly homeless residents found many buildings have deteriorated from insufficient city funding, leaving residents to contend with rodent infestations, broken elevators, insufficient staffing and other problems. The Vallejo Sun uncovered similarly poor conditions in the hotels that the city leased through Project Roomkey.

And some acquisition efforts have raised questions from critics.

Berkeley and several other Bay Area cities have partnered with the California Community Housing Agency, a Central Valley-based joint powers authority that acquires newer apartment buildings and enacts rent caps meant to make their units affordable to middle-income tenants. Last fall, the agency bought downtown Berkeley's notorious K Street Flats apartment complex, the site of the 2015 balcony collapse tragedy that killed five Irish students. The sale did not involve any city funds, but the purchase will take the property off local tax rolls.

The agency says its acquisition deals help provide homes for teachers, firefighters and others priced out of expensive markets. But it has faced questions about whether the discounts it provides are generous enough to meaningfully improve affordable housing options — while apartments at K Street Flats are cheaper than they were before the agency bought the building, one-bedrooms start at \$2,342 per month.

Ultimately, proponents of the acquisition strategy stress that it isn't a silver bullet to Berkeley and the Bay Area's struggle to create and keep affordable housing. One of its most important limitations, Reid and other experts say, is that acquisition deals don't address the fact that the region needs more housing overall. "The evidence is clear that part of California's affordable housing crisis is that we are just not building enough to meet the job growth that is happening in this region," Reid said. "I don't think we're going to solve it by just a shifting around of existing units."

Many Want To Scale Up Strategy

Despite those challenges, advocates and Berkeley leaders say acquisitions have proven themselves to be one solution that can boost the city's affordable housing supply and help keep longtime residents in their homes.

The city has spent all of the initial funding it set aside for the Small Sites program, but Mayor Jesse Arreguín says he wants to commit another \$10 million to buy and preserve affordable apartment buildings, and eventually provide annual funding for the strategy. A \$300 million affordable housing and infrastructure bond measure city officials are considering putting before voters in November could provide funding for acquisitions, Arreguín said.

"We have been putting money in — a million here, a million there — but it's nowhere near the scale we need," he said. "The need is huge and there are properties going on the market all the time."

The vast majority of affordable housing in the Bay Area isn't legally restricted to low-income tenants, said professor Karen Chapple of UC Berkeley's Urban Displacement Project. That means if a landlord decides to renovate their building to take advantage of soaring rents, the apartments could quickly go from affordable to out of reach.

"Almost all of those units in Berkeley are at risk," Chapple said. "There [are] hundreds of buildings that the city could be looking at acquiring or putting into one of these programs."

But ramping up acquisitions to match the need for affordable housing in the Bay Area will take more than just local or even state funding, she said.

"Ultimately, it doesn't scale unless the federal government gets involved in a serious way," Chapple said, noting that the federal Low-Income Housing Tax Credit program mainly funds new construction, not acquisitions. "That's the big missing piece."

The hope of affordable housing advocates and city officials is that more renters can eventually feel the security tenants like Glenn enjoy. Glenn says he never wants to leave his apartment on Tenth Street, and now knows he won't have to worry that he and his wife are one rent increase away from having to move.

Editorial

wants another \$300,000,000 to go after your property. How successful has government been as the purveyor of rental housing? At \$600,000 a unit, allowing funds for renovation, that'd buy about 500 units, maybe two percent of the Berkeley rental stock. This is a gesture.

Furthermore to make this housing "affordable" requires substantial subsidies. In fact, all so-called "affordable" housing is subsidized housing. It is only affordable because someone else is doing the affording. Taking the profit out of rental housing saves nothing. It is pretty clear to me the profit is *way* cheaper than bureaucracy.

It is the arrogance of the left that they can provide goods and services better than the private market. This is what Austrian economist Friedrich Hayek dubbed *The Fatal Conceit*. It doesn't occur to the left that government is constitutionally incapable of some things.

Look at the record of Government as a housing provider. Picture the thousands of housing units in residential high rises demolished decades before their time in Chicago (Cabrini Green) and St. Louis (Pruitt Igoe). The vision of Pruitt Igoe bombed into rubble is iconic in the annals of federal efforts to provide large scale public housing. Picture the similar Soviet answer to mass housing needs block after block of identical monoliths, sorely lacking in both space and livability. Remember the now-defunct Bay Guardian? This left-leaning weekly annually named the worst landlords in San Francisco. The perennial winner: the San Francisco Housing Authority. Have you ever had to deal with the Berkeley Housing authority? It was so badly run that HUD threatened to take over management.

One can make an argument for institutionally provided housing benefits — direct subsidies — to individuals, but government as the owner and/or manager of housing has uniformly proved to be a very bad idea. Running residential property is complicated and not conducive to bureaucratic management. Bureaucrats are cold, inflexible, and indifferent. Private owners may not be perfect — far from it in the worst cases — but they are a better alternative. The tax benefits associated with rental housing are no more than a mere lagniappe for the service we provide in housing the nation. Why is it that every time I expect a ticker-tape parade, I just get a poke in the eye?



Join Us for Quarterly Social Mixers with Fellow Members The next mixer is set for Thursday, September 8, 5:00-7:00 pm. Join us for drinks and appetizers at Heroic Italian, 2020 Kittredge @ Shattuck.

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

DATE	TOPIC
Wednesday, July 6, 3:00 pm	Creative Ways to Offset Capital Gains
Thursday, July 7, 3:00 pm	Rats, Bedbugs & Roaches Oh My!
Thursday, September 8, 5:00 pm	Social Member Mixer

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. and the idea of adding dense affordable housing at the Ashby and North Berkeley BART stations, but downtown is moving forward.

If the pace of construction continues, such newcomers, in a decade, could look downright petite. Already, a 16-story hotel opened this spring at Shattuck and Center Street, downtown's first tower in 50 years. Grosvenor Properties has cleared a corner at Shattuck and Berkeley Way to start work on 12 stories of apartments.

Those two structures are tall for a city of 124,000 people that has only two office buildings above 150 feet. But with the leeway given developers by the state's housing density bonus, which allows up to 50% extra space and height when affordable units are added to a project, the old limits could be shattered. Trachtenberg Architects has designed what, if approved, would be a 25-story stab on Shattuck next to BART. Several other sites might also be able push this high.

That's why it's important to take stock of what's coming up now. The two buildings on the south end of downtown offer pointers on how density can make an existing district more urbane — and what not to do. Put another way: The more new buildings that come our way in the Bay Area, the more important that space below the kneecaps will be.

QUOTE OF THE MONTH

Ideologues tend to assume that disputes are attributable to misunderstandings and therefore resolvable with better communication. All too often, however, disputes are due to genuine disagreements. There is no misunderstanding. Each side understands the position of the other. They knowingly disagree.

- Anonymous

JULY ZOOM MEETINGS

Creative Ways to Offset Capital Gains Utilizing 1031 Exchange & Opportunity Zone Investment Funds with Jason Stone, Attorney, Barth Calderon LLP Wednesday, July 6, 2022, 3:00 pm

> Rats, Bedbugs & Roaches Oh My! with Helmut Tutass, Bayside Pest Elimination Thursday, July 7, 3:00 pm

Social Member Mixer Heroic Italian, 2020 Kittredge @ Shattuck Thursday, September 8, 5:00-7:00 pm

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

- BPOA WORKSHOPS — Go Beyond the Basics -

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- Up for Debate: What is better, to say "walking distance to..." or use milage, such as, ".2 miles from Trader Joe's"? You won't violate Fair Housing by declaring a location is walkable, but one person's idea of walking distance may differ from another's. I prefer to Google the location and use the milage. Let the reader decide for themselves whether it's close enough to travel to and from the locations they want to visit. I also like to post the Bike Score and Walk Score, which you can find at www.walkscore.com.
- Can't I state preferences? It is absolutely a violation of Fair Housing for a landlord to state a preference for any gender, gender orientation, race, ethnicity, religion, student status, work status, spoken language, etc. Unless you live in your property and share a kitchen and or bathroom with your tenants, don't state preferences!
- The Fair Chance Housing Ordinance, which passed in March of 2020, made it illegal to run backgrounds checks that include an applicant's criminal history. You cannot refuse an applicant based on a prior criminal record and you can't even Google their name to see if you find any criminal records. Leave references to criminal history out of your listing.
- Offering "specials": For rent-controlled units, offering rent concessions is not as simple as it may sound. If you offer a discount of \$500 a month for six months, that rent reduction will impact the rent ceiling! Using the sample ad as our point of reference, by doing this

special, you have lowered the rent ceiling from \$2600 to \$2350.

- Did you catch what is missing? Your ad must include reference to the Fair Chance Housing Ordinance and provide a link to the notice (example: "We Comply with the Fair Chance Housing Ordinance, which you can read here (*insert link*)". The only exemptions to this rule are owner-occupied duplexes and triplexes.
- "On what basis **can** I lawfully deny an applicant?": You can only lawfully deny an applicant if they fail to meet your screening criteria! Therefore, it is crucial that you establish a screening protocol and apply it universally to all applicants. For example, you can require a minimum credit score, good landlord references, and state your income requirements (usually 3x the monthly rent). If the applicant fails to meet any one of your requirements, you have the basis to deny their application lawfully. It's important that your screening criteria is made available to an applicant before they begin the application process! This will help to reduce the number of unqualified applications you receive, and you can refer to your policy if your denial is challenged.





Mark Calvey, San Francisco Business Times, June 22, 2022 [abridged]

n.b. This is relevant to BPOA members. Government keeps the supply of rental housing down. Income keeps effective demand high. The tech sector drives the Bay Area economy. It generates income. –ed.

Mounting layoffs in the Bay Area's tech sector are expected to be a drag on the region's broader economy as the dominant sector slows spending on real estate, hiring and travel - and maybe even that pricey tech favorite, avocado toast.

"Things have gotten considerably worse over the last month," said Mark Vitner, senior economist at Wells Fargo, which this month changed its call from predicting a soft landing to a mild recession in mid-2023. "We're seeing a moderation in employment numbers already."

Bay Area companies announcing layoffs are following a familiar playbook as they try to rapidly cut costs. Coinbase, for example, said in mid-May that it slowed its hiring plans and later rescinded job offers. This month, Coinbase cut 18% of its workforce, or about 1,100 employees.

Job offers are also being rescinded in insurance, retail marketing, consulting and recruiting services, according to the Wall Street Journal, which notes the rescissions signal how quickly hiring plans have changed.

As companies shed workers, other expenses are also under the knife. Twitter, being acquired by Elon Musk, adopted a hiring freeze, rescinded job offers and advised employees to trim

from page 4

Berkeley's Downtown Housing Boom

A report by Vancouver city staff showed "strong evidence" that the tax reduced the number of vacant residential properties. From 2017 to 2019, the number of vacant properties decreased by 26% and more than \$86.6 million of the tax revenue was put toward affordable housing initiatives.

Similar to Vancouver, Harrison said the revenue from the special tax in Berkeley would be put toward affordable housing — specifically new projects and the acquisition or rehabilitation of existing buildings.

Leah Simon-Weisberg, the chair of Berkeley's Rent Board, supports Harrison's proposal, arguing that leaving properties vacant is "irresponsible."

"This is one of the many different policies that we need to implement so we can get closer to having our housing used as it's intended, which is as a home," she said.

Affordable housing developers also support the vacancy tax because the revenue could be used to fund more projects.

The Rev. Sophia DeWitt, a policy director at East Bay Housing Organizations, which represents affordable housing developers, said the tax revenue could potentially help with the production of affordable housing. If the council approves Harrison's measure, the city attorney will develop language for a ballot measure. The council has until July to decide whether it will be placed on the ballot.

business travel, the Wall Street Journal reported. Twitter also

canceled a companywide trip to Disneyland planned for Janu-

ary. The cost-cutting threatens to hit the Bay Area economy

"I think it will slow the Bay Area's recovery," Vitner said. "A

lot of folks that work in the tech sector are paid in part with stock, so they're already feeling it. They definitely will feel less

wealthy, so they will be inclined to dine out a little bit less."

"The Bay Area economy added a meager 6,900 jobs in May,"

the Bay Area Council told its members June 17, citing the

latest data from the California Employment Development De-

partment. "This is the third month in a row that job gains in

the region have been slower than the previous month, falling

The business-backed group warned its members that new job

creation could go negative amid the mounting layoffs. Layoffs

are also occurring among real estate brokerages and mortgage

lenders, although most companies decline to say how many

even as it seeks to recover from the pandemic.

from a high of 22,100 new jobs in February."

job cuts are being made in the Bay Area.

Others are also voicing concern.



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LANDLORD 101 SESSIONS:

Each month we take on a new topic in depth, examining everything you need to know to manage your own property. Check the BPOA calendar for more details.

