DEC 2022

BPOA

MONTHLY

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

The Home Office: Part Two

Mark Tarses, President, BPOA

As I have said in Part One a few months ago, the most desired and valuable rental amenity now and for the foreseeable future is a home office. In a college town like Berkeley, a home office is also valuable for use as a study or homework room.

This isn't a passing fad. You need to accept that working at home and hybrid work is here to stay. A hybrid job is one in which a person works at home most of the time but occasionally needs to go to an office. A lot of people think the home office is a temporary fad brought about by the Covid epidemic and that once Covid is under control or goes away, then people will return to the office just like before. They are wrong. Things are never going to return to just like the way they were before Covid. The shift to working at home began before Covid. Covid just accelerated the trend.

Noise. A home office needs to be a quiet room, not just a quiet space. A person working at home does not want to hear Monday night football on the TV in the living room or a roommate talking on the telephone in another part of the apartment while he is working or attending a Zoom meeting. A home office is not an alcove or a cubicle with walls that don't go up to the ceiling. A home office needs to be a room with 4 walls and a door that keeps out noise.

Business centers. A business center is not a substitute for a home office. In my opinion, the apartment house business center is passe. Business centers made sense when tenants only used them occasionally. That was when people working at home felt they needed access to a fax machine and a printer and before business meetings went to Zoom. Most people who work at home today have printers, and besides, printers today are small, cheap, and wireless.

Remember this — there are amenities that tenants like but will not pay higher rent for, like towel warmers in the bathrooms. However, tenants will gladly pay higher rent for a home office!

DECEMBER EVENTS

Holiday Party
Thursday, December 8, 6:00-8:00 PM

30 Minute Hot Topic: Reviewing the Rent Registry
Wednesday, December 14, 3:00 pm

Monthly Owners Forum
Thursday, December 15, Noon

Annual Membership Meeting & Elections
Thursday, January 5, 5:00 pm

*See pages 13 & 14 for details & **more events!***

Issue Highlights

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

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

About the Newsletter

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

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

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

Editorial

Is the Cure Worse Than the Disease?

Albert Sukoff, Editor

Since the beginning of the year, the Federal Reserve Bank has increased interest rates five times. From March through November, the discount interest rate has risen from .25% to 4.0%. Another half-point is expected before the end of the year.

This rate is an index which is the basis for interest rates actually charged in the money markets. The Fed raises the discount rate and rates go up. Home loans, for example, have risen accordingly. Reflecting the rate increases imposed by the Fed this year, mortgages, which were about 3% at the start of the year, will be over 7% by the end of the year. The monthly payment on a $500,000 loan at 3% would be $2,108; at 7%, $3,326.

The purpose of the Fed increases is to dampen inflation. Their only tool — control of the base underlying interest rate — is a blunt tool. What they are doing is analogous to doing fine wood carving with an ax. There are problems and gross inequities with what they are doing.

At the lower reaches of the economic scale, households which are only marginally able to get by are seriously effected in a negative way. They start from a more disadvantageous position because inflation hurts these consumers more than their better-off counterparts. If they have variable-rate debt as well, they take a serious second hit. Consumer debt, credit card interest rates, personal loans and older student loans almost always have floating interest rates. A lower-income household which owns its home might have a $100,000 mortgage and see their payment jump from $420 to $665, a significant increase if they are living paycheck-to-paycheck.

Successful (or budding) entrepreneurs might be at the other end of the income scale. Curtailing inflationary business activity is the intended purpose of the Fed rate increases. However, ongoing business activities may or may nor be able to be cut back. A restaurateur, for example, may have declining business due to both Covid and the state of the economy, and yet have a loan payment on a business loan which goes up every month. A risky business to begin with, it is not surprising to see the huge increase in restaurant failures. Other businesses are similarly affected.

I have four development projects in various phases right now. I cannot quit or cut back mid-project. I am not about to start something new, but I cannot help the Fed by curtailing my ongoing activities. My increased monthly interest cost is a five-figure number. This is the Fed's clumsy ax hanging over my head. My dollar cost is far greater than a low-income household but thankfully my ability to pay for my personal needs is wholly intact. I acknowledge that I am not as affected as they are. Nevertheless, this hurts.

It hurts in two ways. First, I am scrambling to not lose money. Three of my projects involve new, for-sale housing. The final products will be sold in a down market and financing will be more difficult. Construction costs are up and the projected sale prices now appear optimistic. It is possible that I will lose money on these projects. I am not primarily money-driven in these efforts. I do it because I find the process creative and satisfying. I do it to have a reason to get

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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.

Will This Eviction Moratorium *Ever* End?

On October 17, Governor Newsom announced that the state of emergency in California will end on February 28, 2023 — almost three years to the date since the shelter-in-place started. Berkeley and Alameda County' eviction moratoria started in April 2020. At that time, it was unfathomable to think that a prohibition on evictions would last three years.

Equally, we never thought we'd *still* be writing about the impact and devastation of the eviction moratoria on rental housing. Both the state of emergency and the moratoria have become weapons used to advance the political agendas of elected officials. The governor's original issuance of emergency powers to local elected officials has irreparably damaged the rental housing industry. The emergency powers were originally meant to allow cities a quick way to put measures in place to protect its citizens from the spread of COVID. Instead, they have become a blatant way to ignore the will of the people.

From a housing standpoint it has allowed social housing activists to advance their housing agenda by skipping the will of the voters. Berkeley *and* Alameda County's eviction moratoriums continue to reign despite the state expiring its eviction moratorium last year. We question the authority of local governments to continue to use their emergency powers beyond the time in which the governor granted them. Alameda County and Berkeley will likely subject themselves to multiple lawsuits should they continue to exert emergency powers that are no longer in effect.

Local Election Outcomes

The 2022 November election outcome had mixed results for Berkeley. While we were able to defeat a poorly planned and written bond measure that would have increased property taxes yet again, we lost on other fronts.

Measure L (the bond measure) needed a two-thirds vote to pass but received just under 60% of "yes" votes. Measure M (the vacancy tax) passed, although not with flying colors. It needed 50% + 1 vote to pass and received 64%. In previous elections, many rental housing-related ballot measures passed with well over 70% of voter approval. This less-than-65% passage could signal a growing awareness of the impact of rental housing legislation on small property owners.

Councilmember Rashi Kesarwani held her seat in her re-election for District 1. Outgoing Councilmember Lori Droste (District 9) will be replaced by small property owner Mark Humbert, for which we are grateful! Councilmember Rigel Robinson (District 7) won his re-election unopposed and with just 673 total votes. So did Councilmember Kate Harrison (District 4) who won on 3,034 total votes.

The five seats open for the Rent Stabilization Board all went to pro-tenant candidates. While the full tenant slate did not make it to the top five (one independent candidate broke the slate), our effort to seek just one seat representing property owners failed. In the 2020 election, 41,000 voters voted for Rent Board seats. In this election 23,000 voted. That represents 21% of Berkeley's population voting to seat the Rent Board.

Overall voter turnout was low which is usually how midterm elections go. And now, all those who are politically inclined are starting to gear up for 2024 — including the BHRC. A presidential election year typically brings out massive Get Out the Vote (GOTV) efforts. These voter registration drives often motivate more students and progressive voters to the ballot box which makes it a bigger hill to climb for us property owners. We can tell you that our membership should expect to have to defend several ballot measures at the state and local level, as well as choose new leaders to combat possible re-elections such as Mayor Jesse Arreguin. The only way to change the course of rental housing policy is to make sure leaders at City Council and at the Mayoral level actually understand the critical components of rental housing.

It's critical that you prepare for 2024 by upgrading your membership to the Berkeley Rental Housing Coalition. We are the political and legal arm of the BPOA. We fight against unbalanced, unfair, and poorly thought-out rental housing policy. The only way to continue to protect your property rights is to invest in our policy work. The BHRC employs the feet-on-the-ground who hold the elected officials' feet to the fire. To lend your support, contact Executive Director Krista Gulbransen, krista@bpoa.org or (510) 304-3575.

Judge Allows Oakland Eviction Moratorium to Stand, for Now

Natalie Orenstein, Oaklandside, November 23, 2022

The order is a blow to landlords who sued Oakland and Alameda County this year, but the case is not over

A federal judge has denied an initial attempt by landlords to strike down Oakland and Alameda County's eviction moratoriums, meaning the bans on removing tenants from their housing will remain in effect while a court case considering the policies' constitutionality continues.

Judge Laurel Beeler's order, issued Tuesday evening, is a significant step in a lawsuit filed by a group of rental property owners in March. The landlords argue that the city and county COVID-19 eviction bans, in place since March 2020, constitute an illegal "taking" of private property by the government and violate state law.

Beeler disagreed that the city and county are taking landlords' property, writing in her 40-page order that the moratoriums "are temporary…do not absolve renters of their obligation to pay rent, and include exceptions allowing the landlords to leave the rental business."

Oakland and Alameda County had the authority under state law to pass local eviction moratorium ordinances that went further than California's statewide tenant protections, she said.

The COVID-19 pandemic caused an unprecedented spike in unemployment and other economic disruptions that threatened to cause thousands of people to become homeless. Oakland's eviction moratorium, authored by councilmembers Nikki Fortunato Bas and Dan Kalb with City Attorney Barbara Parker, was designed to "preserve and increase housing security for Oakland residents," according to the legislation.

Both the city and county ordinances require tenants to continue paying rent but prohibit landlords from kicking them out if they miss payments. Evictions are not allowed in almost all cases, with some exemptions for direct safety threats posed by tenants, or if the landlord wants to take the building off the rental market.

Beeler's order is in response to a court hearing in late September, where lawyers for the landlord group sought "summary judgment," asking the judge to declare the moratoriums unconstitutional without having to proceed to trial. If Beeler had ruled in their favor, the city and county would have been forced to end the moratoriums immediately, but her order denies summary judgment, so the case will continue working its way through court, likely going to trial next year.

The landlord group failed to "show that the ordinances were an unreasonable response to a legitimate public problem," Beeler wrote.

Andrew Zacks, a lawyer for the property owners, told The Oaklandside that "plaintiffs respectfully disagree with Judge Beeler's conclusions and intend to pursue all available appellate remedies."

In a statement, Parker said the city "is extremely pleased that the court validated the right of cities and counties to enact an eviction moratorium under California law and squarely rejected the plaintiff's claims that Oakland's ordinance, as written, violates their constitutional rights in light of the COVID-19 global pandemic that has tragically taken the lives of more than one million of our fellow Americans to date."

Extended multiple times, the moratoriums are now set to expire once the county Board of Supervisors and Oakland City Council declare an end to the local states of emergency. Gov. Gavin Newsom has announced that California's state of emergency will end on Feb. 28, 2023, which could influence the timeline of the local declarations.

During the September hearing, Beeler said the ongoing moratoriums gave her pause.

"It's a little odd, at this stage in the pandemic, to have an ordinance with no end date," she said.

Many owners of rental property in Oakland have been anxiously awaiting her ruling, including several across the country who've gotten in touch with The Oaklandside.

The lawsuit was filed in March by five local, small landlords, along with the nonprofit Housing Providers of America, which was incorporated early this year by prominent local developer John Protopappas. He is CEO of Madison Park, which owns numerous rental buildings in Oakland and elsewhere.

Leah Simon-Weisberg, legal director for advocacy organization ACCE, which participated in the lawsuit, said the tenant group is "relieved but not surprised" by the order.

"The city of Oakland and county of Alameda took brave and decisive action which protected untold numbers of tenants during a once-in-a-lifetime pandemic," she said.

Rent Control is Destroying a City Near You

William L. Anderson, Pacific Research Institute, October 12, 2022

In 1977, President Jimmy Carter stood on a vacant lot on Charlotte Street in the South Bronx, surrounded by empty, burned-out buildings, something reminiscent of Berlin at the end of World War II. The scene looked like something from a scene in "Escape from New York," but Carter promised he would rebuild the place. Presidential candidate Ronald Reagan went to the same place three years later and did a photo op to highlight Carter's impotent policies and promised that if elected, *he* would fix the mess.

While Charlotte Street did eventually see renewal during Bill Clinton's presidency, the dystopia that was the South Bronx existed for one reason: New York City's byzantine rent control policies. When the Swedish economist Assar Lindbeck declared that, "rent control appears to be the most efficient technique presently known to destroy a city — except for bombing," he didn't have New York City in mind, but he might as well have.

What is rent control and why is it destructive?

Why is rent control so destructive? And if it *is* destructive, why does it have a foothold in so many American cities? If one could explain that the desolation that turned New York into the backdrop for "Death Wish 3" was due in large part because of rent control, how could anyone support it? Some answers are simple, while others are more complicated.

In its basic form, rent control either forbids landlords from raising rents on tenants or only permits incremental rent increases depending upon other economic conditions. In cities like New York or San Francisco, both of which have such policies, renters far outnumber homeowners and landlords, so they provide a strong political base for elected officials that will implement rent controls.

Economists are fond of pointing out that if price controls prevent prices from rising to market-clearing levels, shortages of that good will appear, forcing people to wait in long lines and having to turn to creative ways to obtain goods that are in short supply. Indeed, rent controls do create shortages of housing, but the spillover effects of these shortages often are as bad as the shortages themselves.

While about 180 cities in the Unites States have rent controls, they are bunched into a few states that already are known for progressive governance, which provides a breeding ground for rent control and the initiatives given progressive hostility to free markets in general and private ownership in particular. Not surprisingly, New Jersey, New York, and California lead the way (although St. Paul, Minn., has joined the fray, creating one of the most stringent rent-control policies in the country).

Like most government interventions, rent control promises something for nothing, limiting rent increases for tenants, the idea being that landlords generally are greedy misers who don't deserve to profit from owning apartments. In places like New York City and San Francisco, the city governments are especially hostile to landlords. To enforce rent controls, cities must create housing agencies that also set rental policies, including limitations on evictions, and dealing with tenant-landlord disputes.

Not surprisingly, these boards are "captured" by renters and disputes usually go in favor of tenants. While the movie "Pacific Heights" is fiction, nonetheless it described aspects of the dynamic between property owners and governmental entities in rent-control cities. However, the San Francisco described in "Pacific Heights" is a place with vast housing shortages, with thousands of rentable units kept off the market precisely because property owners do not wish to risk renting them to bad tenants that they cannot evict.

Journalist William Tucker has written numerous articles and books on the subject and has been able to grasp the entire effects of rent control, not just the fact that it causes housing shortages, which are only the beginning of the ordeal that the regulatory regime creates. He writes:

Whatever distortions a regulation creates, some people will adjust to it and actually profit. These people then become a tightly focused interest group that fights tenaciously to retain the regulation. When this interest group is a tenant population that forms a near-majority of a municipality, the chances that rent control can be abolished through local political efforts are extremely small.

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Would A Vacancy Tax Reduce State's Housing Shortage?

Kerry Jackson, Pacific Research Institute, November 7, 2022

History Says No.

While it might seem impossible given the state's perpetual housing shortage, there are empty homes in California. Some policymakers believe that forcing the owners to put tenants in their properties will help solve an unaffordability problem that has priced so many out of the market.

Sounds simple. Of course, it's not.

Several California cities, including San Francisco, Berkeley, Santa Cruz, and Napa, have measures on Tuesday's ballot that, if passed, would levy taxes on vacant homes. The idea is to put owners in a position in which they have to decide between a new tax and renting their unoccupied units. For instance, San Francisco's Proposition M, the Empty Homes Tax Ordinance, would tax the owners "of vacant residential units in buildings with three or more units, if those owners have kept those units vacant for more than 182 days in a calendar year." The rate would be between \$2,500 and \$5,000 per open unit in 2024, then increase "up to \$20,000 in later years with adjustments for inflation." Estimated annual revenue is expected to be at least \$20 million and maybe as high as \$37 million. Funds generated would be applied to "rent subsidies and affordable housing."

"The phenomenon of empty homes has got to be part of our discussion of our city's housing crisis," San Francisco Supervisor Dean Preston said at a recent Board of Supervisors meeting, according to KQED radio. "It is a moral issue to have people living unhoused on the streets of our city and then have tens of thousands of units sitting empty."

Is it not a moral issue for elected officials and voters to resort to coercion to pursue a policy agenda they favor? Is protecting rather than violating property rights not a moral issue?

Preston, by the way, brags that he is "the first Democratic Socialist elected" to the San Francisco Board of Supervisors in more than 40 years. So respect for property rights is not going to be high on his list of priorities, if it is there at all.

The same can be said for the many supporters of Proposition M. The Coalition on Homelessness bemoans "the hoarding of vacant units," which it believes is making the city's housing "issue worse."

"If we ever want to stop this crisis, we need to do everything in our power to fill these homes, including the taxation of empty units."

In Berkeley, a report from the city says, "the extraordinary gap between the housing needs of residents and the availability of housing" can be bridged only "through the use of numerous policy interventions, including a vacancy tax intended to incentivize owners of housing property to bring units back on the market and discourage speculation." As if all agree without question that compelling owners to use their property in ways they hadn't intended to is a legitimate role for government.

Let's forget for the moment the property rights question and look at the experiences in other cities.

Let's forget for the moment the property rights question and look at the experiences in other cities.

Vancouver, British Columbia, enacted a vacancy tax in 2017, and while "revenue has exceeded expectations," Bloomberg reported last year, the "rental inventory hasn't budged." In Melbourne, Australia, "the take has been tiny" after the tax was implemented in 2018.

"In neither city is there compelling evidence that homes have gotten any more affordable."

Brendan Coates, economic policy program director at the Grattan Institute in Melbourne, told Bloomberg that "vacant property taxes fall into the bucket of something that sounds good but won't make that big a difference in practice." It is merely "a distraction from the main game."

Or in other words, a shakedown, a path to additional revenue, which is not the stated objective of a vacancy tax.

Oakland established a vacancy tax in 2018 and its supporters in city government naturally defend it. Yet homelessness in the city has almost doubled over the past five years, while rental rates are increasing. A one-bedroom apartment costs 16% more this year than last, while the cost of a three-bedroom has jumped by 34%. Rental of a three-bedroom is higher today than it was when the tax was passed.

This failure is why a recent East Bay Times editorial could say with confidence that a "vacancy tax is a solution in search of a problem."

Madison Park Moves Forward with Rare Rental Project in Downtown

Sarah Klearman, San Francisco Business Times, November 21, 2022

Oakland developer Madison Park is poised to begin construction on Golden Gate Plaza, 71-unit apartment project in downtown Lafayette, in the first quarter, founder and CEO John Protopappas said Monday.

The four-story project, slated to rise on roughly 1.5 acres at 3483 and 3491 Golden Gate Way, would be the first new rental housing in the East Bay city in decades. The downtown has seen a stream of condominium projects and proposals over the last few years, but the vast majority of the rental housing stock dates back decades.

That's in part due to community resistance: Lafayette became infamous in housing circles for resident opposition to the Terraces of Lafayette, a 315-unit apartment complex a little more than a mile away from Madison Park's Golden Gate Way project. Though the Terraces, which was first proposed in 2011, finally received approval from Lafayette in 2020, it has faced continual challenges related to environmental lawsuits filed by neighborhood opposition groups. The project remains unbuilt today.

Madison Park successfully entitled Golden Gate Plaza in February 2021, about two years after it was first proposed. The firm, which has owned the site since 2006, previously operated a 47-unit apartment building built in the early 1960s there.

Protopappas said the company proceeded "slowly and carefully" and worked closely with the community. The project also utilized state density bonus law, which allows developers to trade on-site affordable units for more density than would otherwise be allowed, and Senate Bill 330, which provides a path to streamlined approvals for eligible residential projects.

The firm is currently in negotiations with lenders for construction financing, Protopappas said, adding Madison Park is preparing to put up anywhere between a third to a half of estimated $64 million project cost in equity, largely because of interest rate hikes. Madison Park took a similar approach in building the third phase of its 172-unit Bakery Lofts project in 2012; the project was at the time the lone market-rate development proceeding in Oakland.

Apartments at Golden Gate Plaza, the majority of them two and three bedrooms, will rent for an average of $5,000, Protopappas said. The project includes nine affordable units as well as an 86-slot underground parking garage and a public plaza. The project architect is Levy Design Partners.

The Nuts & Bolts: To Gift or Not to Gift

Tiffany Van Buren, BPOA Deputy Director

The Pros and Cons of Tenant Gift Giving

The winter holidays are upon us, and whether you celebrate Christmas, Hannukah, Kwanza or Yule, gift giving is a customary practice. You've selected the perfect presents for your loved ones, you've bought gifts of appreciation for your mail carrier and UPS delivery person, but do you buy gifts for your tenants? Here we briefly cover the pros and cons of tenant gift giving from a landlord's perspective and offer some gift suggestions should you decide to include your tenants in your holiday giving.

Landlords who are "pro" at gifting their tenants say it's a small act of kindness that their tenants really appreciate. It can translate into goodwill and increased tenant retention. BPOA Board President Mark Tarses is a true believer, publishing an annual Christmas Gift List on his newsletter, giving his tenants the option to choose from items such as electric scooters, iPads, air fryers, and gourmet chocolates. Mr. Tarses gift list is an extreme example (gifts need not be this extravagant to be appreciated), but his generosity is worthy of a mention here. Typically, if you are a smaller landlord who frequently talks to your tenant and you want to maintain a good relationship and encourage tenant retention, giving a small gift to your tenants like a holiday card or small gift card is generally still perceived as professional, within the confines of a business relationship, and is an appreciated gesture of goodwill.

Landlords who are "con" to gifting tenants say they're uncomfortable with the idea for several reasons including, "gifts are for family and friends, not acquaintances" or "My tenants only want to hear from me when it's to fix something", or "I don't want to blur the tenant/landlord relationship!" Some are fearful that giving holiday gifts will set an unwanted precedent and gifting will be expected for every holiday and occasion. Still others believe the tenants will be resentful, believing the money would be better spent on property improvements, not "tenant bribes."

If you decide you'd like to give gifts, you may want to consider that the IRS allows the amount of $25 per year per tenant as a maximum gift deduction on your taxes. Here are a few suggestions:

- $25 gas station gift card
- $25 grocery store gift card (Trader Joe's, Berkeley Bowl, etc.)
- A bag of coffee/box of tea/hot cocoa mix and a coffee mug
- A small door wreath and a package of 3M command strips for hanging
- A box of chocolates
- A hand-written card

Ultimately, being a good landlord is a gift unto itself. Giving your tenants the gift of being respectful, cooperative, and attentive year-round should not be undervalued. Happy Holidays.

Volunteering for BPOA

Our organization is only as good as our members! We are especially appreciative of those who take the time to volunteer.

Whether you are participating in a committee or sitting on our board of Directors, becoming more involved in BPOA is a great way to expand your network and lend your expertise. Each January BPOA's general membership elects our next board of Directors and each year the organization takes on new projects that need committee members.

If you've ever thought of getting more involved, now is the time.

- B**POA Board of Directors:** approximately two hours per week and one two-hour board meeting every month. Board meetings are held in the early evening during the work week. This board helps guide the strategic planning of the organization and is responsible for its fiduciary oversight. Previous experience as a board member not necessary.
- C**ommittee Member:** approximately one hour per week and one meeting every other month. Available committees include New Member Welcome Committee, Member Outreach Committee, and Social Planning Committee.
- B**RHC Board of Directors:** approximately one hour per week and one two-hour board meeting per month. Board meetings are held during the workday. Theis board's primary responsibility is to help guide, plan, and respond to political and legal issues affecting rental housing in Berkeley. Prior experience as a board member and multi-unit ownership preferred.

For more information on these or any other volunteering opportunities at BPOA and BRHC, please contact Executive Director Krista Gulbransen - krista@bpoa.org or 510-525-3666.

Cities in Texas Had Rent Control at One Point in History — Why Don't They Now?

Audrey McGlinchy, KUT 90 (Austin), November 22, 2022

Early in the pandemic, protesters in Austin called for a rent freeze as "stay at home" policies caused many to be out of work. Months later, rent prices began rising at historic rates, prompting some to wonder - what about rent control?

Renters in Austin have endured more than a year of rapidly rising rents. Unlike homeowners, who lock-in a monthly mortgage payment and benefit from property tax breaks, renters are not protected from increased housing costs.

Rent control is one response to this. While policies vary, rent control is when a government caps the monthly rent a landlord can charge or limits how much rent prices can rise each year. Rent control has experienced a resurgence as housing costs rose during the pandemic; voters in St. Paul, Minn., passed a strict rent control measure last year, while Boston's new mayor ran on the policy.

In Texas, state law makes it difficult to enact these protections. But half a century ago, cities in the state did have rent control. Understanding that history can help explain why cities don't have it now.

A wartime move

The U.S. entered World War II in 1941. As American troops traveled overseas, others began migrating across the country to support the war effort by working in factories and training at military camps. Suddenly, cities and towns had to accommodate a surge of new residents.

The federal government needed to ensure that those moving into new cities could both afford housing and not displace current residents. So, as the war began, the Roosevelt administration established the Emergency Price Control Act, which included national rent control.

The federal government designated "defense rental areas" that were subject to rent control. This included the Austin area; about 1,500 officers and their families had arrived at Camp Swift in Bastrop early on in the war.

The federal Office of Price Administration controlled rents, which were tied to historical prices. Starting in December 1942, Austin landlords could not charge more than the monthly rent they collected on March 1. Officials worried renters would try to outbid one another for homes - something that has happened recently in Austin.

"'[I]t would be grossly unfair for a war worker making $75 a week to bid against some citizen making only $30 a week and thereby cause an increase in the rent of the property both are seeking to rent,'" Murray Graham, OPA director for the Austin area, told an *Austin Statesman* reporter that year.

Evictions were also outlawed.

Not everyone was happy about this. When the war ended in 1945, federal rent control remained - and some Texas landlords threatened to stop renting their homes in protest of the continued policy. But they didn't have to follow through on these threats. In the summer of 1946, the act establishing federal rent controls expired and landlords began raising rents.

"[O]ne apartment owner served notice Monday of a 50 percent increase in rent effective immediately," reads an *Austin Statesman* article that July. "Rents were raised on a 12-unit apartment house from $40 to $75 a month, with a $5 month charge for use of the ice box."

At some point, the federal government reinstated rent control. But it didn't last much longer.

'Decontrol' begins

In 1947, the Truman administration began allowing states and local governments to opt out of federal rent control - to "decontrol" the rent. Towns throughout Texas did just that; local officials in Austin voted to end rent control on Sept. 1, 1949. Renters worried that without controls they would be hammered by rent hikes.

Nonetheless, the decontrol of rents continued. That same year, Texas Gov. Beauford Jester signed a law ending federal rent control in the state. "All federal rent controls are hereby declared no longer needed in the State of Texas," the bill reads. If a local government declared a housing emergency and got the governor's signature, however, officials could return to capping rent prices.

And as the Korean War unfolded, municipalities in Texas returned to rent control. In 1952, counties outside Austin

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Rent Spiral Worldwide But Not in San Francisco, Why?

Mizra Shehnaz, businesslend.co, November 11, 2022

At the start of the year, Lindsey Bourne, 33, started looking for a new apartment to rent in Oakland. She last moved in 2019. This time, she was looking for a larger apartment in a smarter neighborhood. Her budget was between $2,500 and $2,800 per month, but she thought she might have to pay more. In the aftermath of Covid lockdowns, rental prices across the country were climbing rapidly as residents flocked back to US cities. Would-be tenants reported that apartment viewings were crowded with other hopefuls, resulting in bidding wars and homes going under contract for far higher than their original list prices.

But while Bourne says that the viewings she went to were well attended, when she found a home she liked and submitted her first offer of $2,200 per month, the landlord accepted it straight away. "I have doubled my square footage and this home has better light. I got what I wanted for way under my price range and I didn't have to rush," she says.

> *Office vacancies have risen faster in San Francisco than other major cities … by the third quarter of 2022, one in four offices in the city was vacant.*

Rental price growth across the Bay Area's three largest cities — San Francisco, Oakland and San Jose — has remained relatively subdued since the start of the pandemic. In September, the average rental price in San Francisco was 7 per cent higher than it was in March 2020, according to property portal Zillow; San Jose was up 9 per cent. The US city average was up 26 per cent. While still among the most expensive cities to live in the US, before the pandemic, the average rental price in San Francisco was 10 per cent higher than in New York. In the summer, New York prices overtook those in San Francisco.

"Many of the technology workers who moved out of San Francisco when the pandemic hit to find cheaper places to live just haven't moved back in," says Patrick Carlisle, head of research at Compass, an estate agent. "On top of that there is increasing concern about crime and homelessness, especially in those areas where high-tech offices were clustered, but now remain mostly vacant."

Many of those who aren't needed at their company desks are still choosing to rent or buy somewhere beyond the city. Christina Trifero, a writer for a tech company in her late thirties, is among them. "I think I must have the best deal in the country," she says of her 2,000 sq ft apartment in Outer Sunset, on the city's western shore, near the Golden Gate Park, which she rents for $3,500 per month. Nonetheless, she is making plans to leave the city after 14 years of living there. Her new employer, Zapier, has a mailbox in San Francisco, but no offices for its 800 employees, who work around the world in more than 40 countries. Trifero plans to spend a few months renting in Nashville, Tennessee, and St Petersburg, Florida, before she decides where to settle.

"I feel I'd gain being a renter in either of those places," she says. "Landlords pay more care and attention to their homes than in San Francisco."

Many of the Bay Area's technology companies established remote working practices before the pandemic, and have generally been more accommodating of employees' desires to continue working from home — although some, including Google and Uber, have asked workers to come back to the office for at least a few days a week. At the end of last month, office attendance in San Francisco stood at 40 per cent, compared with the 48 per cent average of the 10 major US cities tracked by Kastle Systems, a US property security business.

Office vacancies have risen faster in San Francisco than other major cities, according to the property company JLL; by the third quarter of 2022, one in four offices in the city was vacant. This has changed the atmosphere both in downtown and in the city more broadly, says Trifero, reducing its appeal. "It feels like the people that want to be in the office now are workaholics who aren't in touch with their true soul. Working in the city seems to be a hustle. The energy was once laid-back, freethinking and entrepreneurial in spirit; now it feels like you're more of a cog in a wheel."

Growing challenges for San Francisco's technology companies may keep a lid on demand for the city's rental homes. The Nasdaq Composite index, which includes many of the city and Bay Area's most famous companies, has lost 34 per cent this year. In the face of the US economic slowdown, many of the area's leading technology companies are cutting jobs. Last week, Twitter began a big redundancy drive under its new owner Elon Musk; Meta has announced large-scale lay-offs; ride-hailing app Lyft and online payments giant Stripe have also announced significant job losses. The reluctance of tech workers to return

continued on page 14

Bay Area Apartment Rental Prices Dip as Economic Anxiety Mounts

Ethan Varian, Bay Area News Group, November 7, 2022

Rental prices are falling after a year and a half of steady gains

After a year and a half of steady increases, rental prices for Bay Area apartments are falling — a rare bit of relief for renters as economic anxiety ripples across the region. The drop signals a return to seasonal trends as the colder months approach and fewer people move. But it's likely also a reflection of recession fears, tech sector layoffs and the rising cost of goods tamping down demand in the country's most expensive rental market.

"Folks' budgets are getting squeezed not just when it comes to housing, but when it comes to their day-to-day expenses," said Apartment List Senior Economist Chris Salviati.

In both the San Francisco and San Jose metro areas, rents are down around 2% from their most recent high in August, double the nationwide drop during that time, according to data from Apartment List, a rental listing site.

The median monthly cost of a new lease for a one-bedroom rental in the San Jose metro area, which includes the entire South Bay, is $2,240. In the San Francisco metro, which includes the East Bay and the Peninsula, the median rent is currently $1,932 a month.

Still, the two metros remain the priciest of any large U.S. population center. They're ahead of San Diego at $1,916, New York at $1,897 and Los Angeles at $1,753. The price declines are the latest lurch in what's been an unpredictable ride for the Bay Area rental market during the pandemic.

At first, rental prices in the region's larger cities cratered by as much as 25% as renters fled to the suburbs and less expensive parts of the state and country. Rents began to rebound last year as public health restrictions were lifted and more people returned, but the Bay Area as a whole was spared from the soaring price jumps seen nationwide. Now, rents are declining again.

In some of the region's hardest-hit urban hubs, rents still haven't returned to pre-pandemic levels, even as prices made a steady climb over most of the past 18 months. Median rents in San Francisco ($2,339) and Oakland ($1,531) are at least 10% lower than in March 2020.

"The Bay Area is still a bit of an anomaly," said Salviati, noting the popularity of remote work here is likely a factor because people moved out of the Bay Area, reducing demand.

Salviati said with inflation remaining high, people are increasingly moving in with roommates or family to save money. That reverses a trend of more renters getting their own apartments, he said, possibly a result of rising incomes during the pandemic.

In turn, apartment vacancy rates across the Bay Area are creeping back up to near or above 5%, not far behind the 5.5% national rate, according to Apartment List data.

At the same time, some renters may be putting off finding a new apartment because of spiking consumer costs or worries about a coming recession. A recent spate of layoffs at big tech companies, including Oracle, Netflix and most recently Twitter — amounting to thousands of local job losses — could also be convincing people to stay put.

"We've got more inventory starting to become available, and that's collided with a decline in demand," Salviati said.

That dynamic, he said, should continue driving down rental prices at least into next year, barring a severe recession.

Michael Lane, a housing policy expert with Bay Area think tank SPUR, agreed that rents should keep declining, but he doesn't expect the market to suddenly collapse. That's because people who can't afford to buy homes will still need to compete for limited available units, which have only become more scarce as apartment construction has stalled out in recent years, he said. Meanwhile, rising mortgage rates, which topped 7% last month, will likely continue squeezing would-be homebuyers, forcing them to remain in the rental market.

"The bottom line is," Lane said, "this will remain a very expensive market."

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Once Upon a Time in Texas

- including Hays, Comal, Caldwell and Guadalupe - adopted rent control policies as military personnel flocked to nearby Gary Air Force Base.

Protections didn't last much longer, though. Officials ended rent control in the region surrounding Austin the next year.

So, where did rent control go?

In the original version of Texas' rent control law, cities and towns could simply declare a housing emergency and then, with the governor's signoff, begin limiting rent prices.

In 1985, state legislators amended the law, making it harder to enact these types of policies. They tied rent control to a disaster declaration, meaning the governor had to declare a natural or manmade disaster before a city could pursue rent control.

Texas currently remains under a disaster declaration in response to the COVID-19 pandemic. So, is rent control likely to happen? Unclear. Likely not.

Gov. Greg Abbott's office did not respond to a request for comment about whether he would approve a city's request to enact rent control. KUT asked each Austin City Council member if they would pursue it; those who responded said they had no interest because rent control isn't "legally viable."

Council Member Kathie Tovo, who represents a district where 70% of households rent their homes, said the idea of it has been floated, but the city's legal department has said it's not a real option.

"The governor would have to sign off on that declaration and the likelihood of that happening with the current administration is very, very low," she told KUT.

If we could have it, would we want it?

One obvious benefit of rent control is stability. Capping prices can help tenants avoid the annual search for a cheaper home - which often means moving farther away from a workplace or a child's school.

Looking at rent control in San Francisco in the late '90s, researchers at Stanford University found that tenants living under rent control were up to 20% more likely to stay in their homes - and in the city.

But in the same study, researchers noted an oft-cited downside of rent control: "While rent control prevents displacement of incumbent renters in the short run, the lost rental housing supply likely drove up market rents in the long run, ultimately undermining the goals of the law."

Economists often posit that rent control won't solve the core cause of skyrocketing housing costs: not enough homes for the people who want to live in them. If you cap prices, there is less incentive (i.e., profit) for developers to build more housing in a country already short on housing.

"If the rent is too damn high then really the problem is that there's not enough housing for people who live there," Fetter said. "So, lowering the price that can be charged is not actually solving that problem."

But while some elected officials in Austin say they support rent control policies, pending a change to state law they won't attempt to implement it here. Thus far, no Texas lawmakers have filed a bill having to do with rent control ahead of the legislative session, which begins in January.

QUOTE OF THE MONTH

The trouble with most folks isn't so much their ignorance, as knowing so many things that ain't so.

— Josh Billings

St. Paul Regrets Rent Control

The Editorial Board, Wall Street Journal, October 4, 2022

The City Council Does Damage Control After Builder Fee

Rent control is among the dumbest policies known to man, but cities keep trying it. St. Paul, MN is the latest to discover this universal truth, though not before significant damage was done.

Voters passed a ballot measure last November imposing a three-percent capo on annual rent increases. The result was that builders shunned the city and the Cit Council has responded by voting late last month to create new exceptions to the cap.

Effective January 1st, there will be a twenty-year rent-control exemption for new residential properties and some apartments that participate in government affordable-housing programs. After a tenant leaves or is evicted with just cause, landlords will be able to raise the rent by eight percent plus inflation.

Property owners can also apply to St. Paul for an exemption from the three-percent cap if their property taxes go up or if there are *unavoidable increases* in maintenance and operating costs, including increases owing to inflation. But the City Council also restricted landlords from passing along new utility charges to tenants as a way to offset the rent caps.

Score half a point for the persuasive power of economic reality. The City Council noted in its reform bill *that according to data from the Department of Housing and Urban Development, there have been only two hundred residential building permits in St. Paul through April of 2022, compared to 1,391 at the same point in 2021*. Imagine that.

Mercatus Center senior research fellow Salim Furth also found that multifamily permitting surged in Minneapolis after the its twin city passed rent control. Developers have a choice of where to build, and St. Paul gave them little incentive to invest there.

The City Council's reforms treat the old rent control ordinance as merely too much of an acceptable policy. But rent control is destructive because it reduces the supply of housing, especially for low-income tenants. The city's reforms are a wink at this economic reality, but repeal would have been better.

Join Us for Quarterly Social Mixers with Fellow Members

Remember: Sam Sorokin's Owners Forum happens every month on the third Thursday!

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

DATE	TOPIC
Thursday, December 8, 6:00-8:00 PM	**Holiday Party @ Cornerstone Brewery**
Wednesday, December 14, 3:00 pm	**30 Minute Hot Topic: Reviewing the Rent Registry**
Thursday, December 15, Noon	**Monthly Owners Forum with Sam Sorokin**
Thursday, January 5, 5:00 pm	**Annual Membership Meeting & Elections**

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.

from page 5

Rent Control is Destroying a City Near You

One of the dislocations is that people in rent-controlled apartments tend to remain in place with their good deals, and because rent control provides a disincentive to build new housing, given that the real ownership lies with the rent stabilization boards. This is especially true in communities like Berkeley, CA, which has both a prestigious university and is a desirable place to live.

When Berkeley officials first voted in rent controls in the late 1970s, a large number of University of California-Berkeley students simply stayed in their apartments long after graduation, creating a massive shortage of housing for new students, who then had to look for housing in nearby cities like Oakland. Writes Tucker:

Studies … showed that rent-controlled apartments have tended to fall into the hands of middle-class professionals. A 1994 study of Cambridge by housing consultant Rolfe Goetze showed that rent-controlled apartments were concentrated among highly educated professionals, while the poor, the elderly and students were generally excluded. Michael St. John, a Berkeley sociologist, found similar results in California. 'Rent control has actually accelerated gentrification in Berkeley and Santa Monica,' said St. John. 'Poor and working-class people have been forced out of those communities faster than in surrounding municipalities.'

While rent control was touted in San Francisco as benefitting minorities and lower-income people, the numbers tell a different story. In the late 1970s, Blacks comprised about 13 percent of the city's population, but after nearly 40 years of rent control, that number was down to about 6 percent.

Despite the claims of rent-control advocates, these policies over time damage communities and make housing even *less* affordable. The only thing better than abolishing rent control is not to let it become a policy in the first place.

from page 10

Why Not Here?

to the office will mean many parts of the city continue to lack their pre-pandemic allure, meanwhile. Even under JLL's best-case scenario, one in five San Francisco offices will still be vacant in 2026. This bodes ill for the city economy. "Office-based industries generate nearly 75 per cent of San Francisco's GDP," wrote Ted Egan, chief economist of the City and County of San Francisco in a report to City Hall in October. "If expanded working from home does prove to be a permanent feature of work, it will impact virtually every aspect of San Francisco's economy." Those starting to look for a new rental home in the city may feel, like Bourne, that they can take their time.

DECEMBER MEETINGS & EVENTS

Holiday Party

Cornerstone Brewery - $40 per person

Thursday, December 8, 6:00-8:00 PM

30 Minute Hot Topic: Reviewing the Rent Registry

Wednesday, December 14, 3:00 pm

Monthly Owners Forum

with Sam Sorokin, Premium Properties

Thursday, December 15, Noon

Annual Membership Meeting & Elections

Thursday, January 5, 5:00 pm

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

BPOA WORKSHOPS — *Go Beyond the Basics*

Bay Area Realtor, Economist Predict Rents Will Rise 5% - 10% by End of Year

Stephanie Sierra, KGO Channel 7, September 23, 2022

As consumers are hit with rising interest rates for the third time, a local economist predicts big impacts will soon hit the Bay Area rental market. Whether it's at the grocery store or the gas pump, the cost of nearly everything is going up. But, thankfully Bay Area rents haven't quite fully returned to pre-pandemic rates.

Rents in San Francisco, Oakland, and Berkeley metro areas are still down around three percent compared to pre-pandemic rates. In San Jose, Sunnyvale, and Santa Clara metro areas rents are down just over one percent from pre-pandemic, according to data compiled from Apartment List. But experts say that won't last long.

"Rents will be back sooner than you think," said Neil Canlas, co-owner of San Francisco real estate firm the Canlas Brothers.

"Define soon," ABC7's Stephanie Sierra asked.

"I think we could probably see a five to ten percent increase at least by the end of the year and from there it would incrementally go up a couple percent every quarter," Canlas said.

Canlas studies trends across the Bay Area real estate and rental markets. He's seeing first-hand how the interest rate hikes are impacting the local housing market.

"Sellers can't get the numbers they want to sell their home and buyers' affordability has significantly changed with interest rates nearly doubling within the last year," Canlas said. "These once buyers are now going to be renters."

Purchasing power to buy a home has dramatically shifted in the Bay Area. A new report from Redfin shows luxury home sales have plummeted 28 percent across the country. But the decline is twice as severe in the Bay Area- where luxury homes are priced in the multi-million dollar range, estimated to be properties valued in the top five percent of the market. Oakland is reporting the largest decline in luxury home sales among the country's 50 most populous metro-areas — a 63.9 percent drop. San Jose not far behind reporting a 55 percent drop.

"We know the whole housing market is cooling," said Taylor Marr, the Deputy Chief Economist for Redfin.

Marr says it's possible the cooldown may bring some relief to the rental market. But it won't be anytime soon.

"Potentially the owners of these housing units don't want to list it for sale in a really cool housing market. So they're listing it up for rent...so that supply is also following that demand which mitigates some of that impact on the rising rents," said Marr.

But, Marr says that's not expected to happen for at least six months - assuming rising interest rates continue to weaken our economy and push it further into a recession by next spring.

So when is the best time to rent? Experts say the seasons do play a role in finding rental deals. For example, Marr recommends the best time to start a lease is anytime between November and March. Data shows tenants usually save $100 to $300 per month on the same unit during those months compared to the summer.

CalRHA State Political Update

CalRHA

Governor Newsom's Staff Changes
The Governor's Chief of Staff, Jim DeBoo, has announced that he will be stepping down. Dana Williamson, a former Cabinet Secretary to Governor Jerry Brown will be taking over as the Governor's Chief Advisor in January. Additionally, Analea Patterson, Newsom's former legal affairs secretary, will move from acting to permanent Cabinet Secretary, which was previously the role of Ana Matosantos.

Statewide Political Representation
As far as the state election is concerned, Democrats are winning all of the statewide races.

Republican Lanhee Chen is currently only behind Malia Cohen for Controller by 7.4%, which is the first time in recent history that a Republican candidate running statewide has come within single digits. Due to term limits and redistricting, there will be many new Legislators (approx. 41 of the 120 total) who will be sworn in on December 5th. So far, the results in the Legislature suggest a slightly moderate swing, but California will keep its Democratic party dominance in both houses. Below are preliminary results of several key races, although many of them are too close to call and final outcomes won't be known for several weeks. To view updated results in real-time, please visit https://electionresults.sos.ca.gov.

State Ballot Initiative Results
Prop 1 — Constitutional Right to Reproductive Freedom – **Passed: 84%**

Prop 26 — Sports Wagering on Tribal Lands – **Failed: 34%**

Prop 27 — Online Sports Wagering Outside of Tribal Lands – **Failed: 16%**

Prop 28 — Public School Arts and Music Education Funding – **Passed: 74%**

Prop 29 — Regulates Kidney Dialysis Clinics – **Failed: 39%**

Prop 30 — Tax to Fund ZEV/Wildfire Programs – **Failed: 53%**

Prop 31 — Prohibition on Sale of Certain Tobacco Products – **Passed: 76%**

from page 2

Editorial

out of bed in the morning. Money is important — any fool can lose money — but in the end, money is just how you keep score. Regardless of motive, however, minimizing loss is far less fun than maximizing gain.

Secondly, it infuriates me that there is this windfall for banks due to the Fed's anti-inflation efforts; efforts which in the end, may not even work. Never an advocate for higher taxes, in this case, I would think that a windfall profits tax on the banks would be a good idea. If the funds thereby generated were used to reduce other taxes, so much the better. The banks have done nothing to earn these windfalls. They are not a result of better management or superior service or cleaver marketing or anything else the bankers did. The Fed has just dictated that billions of dollars be taken from businesses and consumers and given to bankers. (And, not incidentally, my marginal tax rate is higher than the banks. Every dollar they make and I don't, costs the government money. You would think that they'd care about that.)

Not minimizing the immediate pain of high inflation — rising prices really do hurt consumers — over time the economy adjusts. The inflationary cycle is largely self-corrective as incomes adjust to higher prices. The real losers are those with cash savings. The value of cash reserves is irretrievably diminished as the purchasing power of the dollar decreases. Nevertheless, is trying to protect savings worth the pain caused by steadily rising interest rates?

And so the question becomes: is the cure worse than the disease? Is the long-shot effort by the Fed actually going to curb inflation or they just adding a different kind of pain to that which comes from the actual inflation?

Good question.


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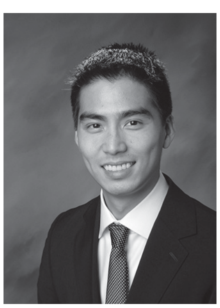

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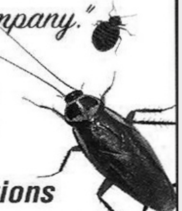

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Berkeley Property Owners Association

DECEMBER EVENTS

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