FEB 2023

BPOA

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

MONTHLY

About Mold

Mark Tarses, President, BPOA

This is the time of year when landlords get complaints from tenants about mold. Mold is a very common problem in the bay area in the rainy season. Here is what you should tell your tenants about mold:

1. Mold needs moisture, which is why it is most often seen in bathrooms. Mold can grow quickly in wet clothes and towels. (If there is a clothes dryer in the unit, tell your tenants to use their clothes dryer to dry out their towels.)
2. Let in sunlight! Sunlight kills mold. There are many unhealthy microorganisms that thrive in dark places. Living in a perpetually dark room is unhealthy. If you don't believe me, ask your doctor.
3. Don't overheat your apartment or house.
4. Let in fresh air, particularly in high humidity areas, especially the bathroom. Keep a window ajar or use an exhaust fan, if there is one, to allow the air to circulate.

When your tenants complain about mold, give them a bottle of mold remover. The two best-selling brands are Tilex and Lysol. Be sure the label says that it is mold remover and that it disinfects. Also, give them a big sponge. You don't want your tenants to scrub the walls with an abrasive scrubber. Mold remover is cheap, and you will get a lot of goodwill by giving a bottle of it to your tenants.

Tell your tenants not to use bleach to remove mold. Bleach is much less effective in preventing mold from returning than mold remover. Bleach may also damage the walls, and the room will smell like an over-chlorinated swimming pool when they are done. That smell can hang around for a long time. To remove mold from towels, wash them in hot water with one cup of vinegar instead of detergent.

FEBRUARY EVENTS

Getting the Most out of Your Rental Applications & Screening
Thursday, February 2, Noon

Becoming Pet-Passionate: Increasing Profits by Lifting "No Pet" Policies
Wednesday, February 8, Noon

Monthly Owners Forum with Sam Sorokin, Premium Properties
Thursday, February 16, 3:00 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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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

They Do Have At Least One Valid Point

Albert Sukoff, Editor

With fifteen ballots over multiple days, the Republican effort to organize the House of Representatives looked pretty inept. Speaker McCarthy finally emerged with the gavel, but he is manifestly weakened by the process which dragged on so long because his margin over the Democrats is so small. He is essentially in a coalition government with the so-called Freedom Caucus, just half of which had enough votes to throw a proverbial monkey wrench into the process. In this case, twenty congresspersons formed an obstructionist group to grind selection of a speaker to a virtual halt.

These MAGA Republicans are not lovable people. They appear to want disruption for disruption's sake. Or worse: disruption for their own sake. Without a clear philosophical base, it seems they want to see themselves on television more than they want to govern. It is hard to answer the basic question: *other than not-the-status-quo, what do they want?*

Nevertheless, not all of these renegade members of the House were totally off-the-wall. There seems to be little redeemable in the character and behavior of a Matt Gaetz or a Marjorie Taylor Greene or a Lauren Boebert. On the other hand, I was somewhat impressed with the stance taken by Texas Representative Chip Roy.

Roy appeared to be the leader of the less-crazy component among those initial holdouts refusing to support McCarthy's bid for the speakership. His stance was not vindictive or mean, nor was his behavior self-indulgent or flamboyant. By the penultimate ballot, only seven of the holdouts refused to capitulate. A dozen others had receded in their opposition, apparently under Roy's leadership. McCarthy gave away the store to get the last needed votes.

So, what was Chip Roy's issue? Undoubtedly, he cares about what government expenditures pay for. In this battle, however, his issue was how much the government spends and how the process of allocating federal money worked. In this regard, he has a very strong case. In calling Congress out for excessive spending, he pointed to both [Republican] excesses for military spending and [Democratic] excesses for social spending. And of course, both sides love those constituency-pleasing earmarks.

The problem which worries so few Washington legislators is that huge quantities of unfunded government spending could bring down the US economy with catastrophic worldwide ramifications. The national debt is very real. It has risen from less than ten trillion at the turn of the century to $31 trillion today. (The actual debt plus future unfunded liabilities has been estimated at over $150T.)

Most voters are oblivious to this issue. Most legislators do not believe it is a problem, do not understand it, do not care, or — worst of all — care only that default is unlikely before the next election. Spending to please their voters has real and immediate political benefits; abstaining for the long-term goal of a balanced budget is intangible and amorphous.

When the United States was young, Alexis de Tocqueville observed that the country would be okay until the rulers realized that they could bribe the people with their own money. What we have now is worse than that. They are bribing the people with their grandchildren's money.

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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.

Impact of the Berkeley Rental Housing Coalition on the Berkeley Rental Industry

BPOA is making great strides as a long-standing resource for Berkeley rental housing owners. Our membership grew 10% in 2022, during which we welcomed many first-time owners. BPOA has been in existence almost since the inception of Berkeley rent control — 1980.

Not all members may be aware of our sister organization — the Berkeley Rental Housing Coalition (BHRC). Started in July 2015, the BRHC is the political and legal arm of BPOA. While BPOA operated for many years as a volunteer powerhouse, the founders of the BRHC realized the importance of a resource more dedicated to government affairs. In a highly-regulated city such as Berkeley, the importance of a public policy watchdog is paramount.

Public policy is often crafted behind closed doors. It can take months (or sometimes years, as it was with the Costa Hawkins Rental Act of 1996) to hammer out details of new regulations. Much negotiation, education, and discussion have to happen in order to finalize any regulation. Berkeley is a well-known epicenter of social housing policy in the United States. Our policies often favor the rights of tenants over the rights of private property ownership. Housing policy is riddled with social housing ideals that impact the risk of owning rental property. The philosophical debate of the rights of housing vs. the rights of private property is regularly debated at City Hall.

The BRHC founders knew they needed a full-time resource that would study housing policy, establish relationships with elected officials, and shape the outcome of future regulations. But to do so they knew they needed a more serious financial investment, one that BPOA was not positioned to provide. Ten dedicated and long-standing rental housing owners formed the BHRC and made its first financial investment. Using the funds, they hired its first (and so far only!) executive director to lead the organization.

The goal was to have a voice that would represent rental housing providers in every possible meeting and discussion of rental housing policy. They hoped to restore fairness, efficiency, and objectivity to Berkeley's rental housing policies. In turn, the board members of BRHC would help to lend both financial support and industry expertise for better policy.

While it's been a rough and bumpy 7+ years, without the BHRC it's clear there would be more stringent housing regulations in Berkeley. One only has to look to Oakland's recent election results where rental housing owners saw a slew of new rules. No longer can an owner in Oakland terminate a tenancy if the tenant refuses to sign a "substantially-similar lease." Their Annual General Adjustments on rent controlled housing have been capped at 60% of CPI with a max of 3%, as opposed to Berkeley's 65% of CPI with a max cap of 7%.

None of this could have been accomplished without the financial investment ten of your fellow rental housing providers were willing to make. They have been carrying the weight of that investment on behalf of *all* rental housing owners in Berkeley for the past seven years. But now it's time for others to step up and invest in the work of the executive director and staff.

In the next few weeks, BPOA will be reaching out to some of its long-time members to ask for an investment in BRHC. While we know costs of inflation and the impact of the pandemic have been especially hard on some of our members, real estate is a long-term investment. And investing in the organization that protects that investment is something we all need to plan for.

If you seek to limit the damage done to rental housing providers as well as limit the risk to your investment, there is no better way than an investment in the BHRC. We hope you will consider our request to be both reasonable and necessary.

Why Doesn't Berkeley Have More Condos?

Nico Savidge, Berkeleyside, January 23, 2023

Almost all of the new apartments built in Berkeley over the past decade have something in common: They're offered for rent, not for sale. Even as the city's real estate market exploded and developers constructed dozens of new rental buildings, planning officials say only a handful of new condo projects have been built around Berkeley.

A key reason for that imbalance lies in the fee the city charges developers who don't include affordable housing in their projects, which is much higher for condo buildings than rental ones.

But that's changing — the City Council on Tuesday approved a slate of updates to Berkeley's affordable housing requirements, which includes eliminating the difference between the fee charged for rental and ownership developments. Supporters hope the change will revive condo construction in Berkeley and provide more options for people to own a home.

"That fee shut down multi-family ownership housing in the hottest housing market in the history of Berkeley," Planning Commission Chair Elisa Mikiten said. "It's really great that it's getting fixed."

City leaders just changed a rule that critics say has hamstrung condo construction for years.

A developer who wants to build a housing project with at least five apartments in Berkeley is required to either set aside 20% of its units as affordable — meaning residents pay below market rate to rent or own them — or pay into the city's Housing Trust Fund, where it can go toward future affordable housing developments.

That fee today is calculated based on the number of units in the proposed building. Berkeley charges rental projects $46,185 per apartment, while condos have a more complex formula based on the sale price of units in the building. Their fees typically wind up being higher and in some cases could top $80,000 per unit, according to research from Street Level Advisors, a firm Berkeley contracted to study updates to the fee program.

The council voted Tuesday to change how the affordable housing fee is calculated — going forward it will be the same for rental and ownership projects, and set based on the project's size, not the number of units in the building.

The new fee is $56.25 per square foot of net residential floor area, meaning the total area of every apartment in the building. It will automatically increase each year based on California's Construction Costs Index.

Planning Director Jordan Klein said it's difficult to track the number of new condo projects that have been built in Berkeley since some developments switch from a rental to an ownership model during construction. But over the past 10 years, Klein said, city staff could identify four new condo buildings, two of which were less than five units.

While a Berkeley condo can hardly be considered cheap, with a median sale price of $800,000 in December according to Redfin, they're still much less expensive than a house, where that figure was nearly $1.4 million.

By changing the fee, Councilmember Rashi Kesarwani said during Tuesday's council meeting, "I hope we can have more condo opportunities for folks to downsize or get their first ownership opportunity."

City planning staff said it's difficult to determine how the new fee structure will affect the amount of money Berkeley raises from the affordable housing fee, though they estimated it will generate a "similar amount" of revenue to the current model. The new fee structure means certain rental projects — those with a lot of smaller units, such as studios — will wind up paying less, while those mainly made up of bigger apartments could pay more.

Developers have paid about $38 million into the fund since 2015.

The new structure is set to go into effect starting April 1; projects that have submitted a complete application before then will be subject to the prior rules.

Some key provisions of Berkeley's affordable housing rules remain undecided following Tuesday's meeting.

The City Council voted to continue exempting small projects — those with four or fewer units — from the requirements until 2025, as Berkeley conducts a study this year that will analyze whether subjecting them to the rules would hamper efforts to encourage duplexes, triplexes and fourplexes. That study is expected to also inform a decision on whether to increase the fee.

Is Student Noise an Environmental Issue?

Bob Egelko, San Francisco Chronicle, January 12, 2023

A Court Weighing UC Berkeley's People's Park Fight Appears to Think So

State appeals court justices considering UC Berkeley's plan to convert People's Park into housing for more than 1,100 students and 125 homeless people seemed skeptical Thursday of the university's decision not to consider alternative sites for new housing or the impact on surrounding neighborhoods of noise from late-night parties and other student activities.

UC Berkeley — which now provides housing for only 23% of its students, the lowest rate in the UC system — has committed $312 million to construction of a 17-story residence for students on the park south of campus, and a separate building for the homeless, along with temporary shelter for about four dozen unhoused people who now sleep at the park. It would keep more than half of the 2.8 acres as open space, with a new grove of trees.

But the project has drawn protests from neighborhood groups who want the park preserved as open space and say the university has less-disruptive options to build housing elsewhere. In a tentative ruling last month, the First District Court of Appeal said the university's environmental impact report, which concluded the construction would not cause needless damage, failed to analyze other available sites for student housing or assess other likely impacts, including student noise.

UC's lawyer, Nicole Gordon of the state attorney general's office, argued Thursday that the university was not required to discuss alternative housing sites or any plans to shield neighbors from student noise.

Everyone who has heard of the housing plan knows that it was "designed to unlock this particular site," Gordon told the three-member panel. "The court shouldn't step in and exercise its judgment on what site the university should develop first."

But Presiding Justice Teri Jackson said a government agency's environmental report is supposed to tell the public "why other alternatives weren't considered."

Gordon also said the report did not discuss the neighborhood impact of increased student noise because noise is "not an environmental issue. It's a behavioral issue."

If state law is interpreted to require an environmental assessment of increased noise from a project, Gordon said, it will become "an anti-density policy.... Every type of housing project in an urban environment could be challenged."

And requiring planners to consider who will inhabit the housing, and how noisy they might be, is potentially "discriminatory and prejudicial," said Alicia Guerra, a lawyer for Resources for Community Development, an affordable-housing developer involved in the construction.

Justice Gordon Burns observed, however, that California law defines environmental impacts to include noise as well as air and water pollution.

The law "doesn't make any distinction between noise made by people" and other sources, and defines a policy "to provide people of the state with freedom from excessive noise, even if those people happen to be residential neighbors."

And Justice Mark Simons said the university appeared to be arguing that it was "inappropriate for us to discuss the noise impact of bringing thousands of extra students into the area."

But Simons also said there was evidence that students in a dormitory or other campus housing tend to be quieter than those who live elsewhere. And Burns said other government entities, such as the city of Berkeley and the Association of Bay Area Governments, have duties to plan for housing and its impact on neighborhoods.

"Why can't the (UC) Regents rely on that?" Burns asked Thomas Lippe, lawyer for opponents of the project, including a group called Make UC a Good Neighbor.

Because the evidence shows they're not doing their job, Lippe replied.

The court said it would postpone a final ruling until it hears arguments in a related case. Its ruling could be appealed to the state Supreme Court.

SF Builders Bemoan Housing Hurdles

Noah Arroyo, San Francisco, Chronicle, January 23, 2023

Affordability quotas found to make San Francisco projects too costly

San Francisco's quotas for affordable housing units in new construction projects are a major factor making the vast majority of them economically unfeasible, according to a study that strikes at the heart of city housing policy.

The study — conducted for a city advisory group — casts further doubt on the city's ability to meet a state mandate for 82,000 new units to be built by 2031 and underlines the continuing struggle to ease the housing crisis. Even eliminating the quotas would not guarantee that developers would deem new projects profitable enough to undertake, the study shows.

"We're so underwater here, I don't know what I could be saying to be productive," said Eric Tao, who reviewed the analysis two weeks ago with fellow members of the Inclusionary Housing Technical Advisory Committee. Based on the study, prepared by a real estate investing firm, "the city should be paying us developers to build housing," Tao, managing partner of developer L37 Partners, said during the review. "I mean, it's ridiculous."

For decades, the city's Inclusionary Housing program has required that developers incorporate some affordable units into their market-rate projects — or pay for those units to be built elsewhere — as a way to ensure that homes for rich people aren't the only ones getting built.

The eight-member committee, made up of real estate and development experts for market-rate and affordable housing, was formed by the city to monitor the policy's effect on housing construction. The committee now must decide whether to recommend to the Board of Supervisors that the policy be changed.

"The feeling in the room is dropping the inclusionary percentage" lower is needed, said committee member Whitney Jones, deputy director of operations at the Chinatown Community Development Center. He and others stopped short of saying how far to lower the requirements, which vary depending on the size of the project.

The finding of the study, conducted by Century | Urban of San Francisco, calculated costs of 40 hypothetical projects for both rent and sale, including the price of land acquisition, design and construction, city fees and the lower revenue generated by affordable housing units.

Of all 40 scenarios, only four, all of them ownership-based, penciled out while satisfying the inclusionary program. Many of the projects that were designated as feasible, or came close to it, were smaller. That could be because larger structures use more expensive union labor and tend to contain advanced safety systems, like elevators that can operate during fires, said Strachan Forgan, principal at SCB, an architecture and design firm.

Among the 20 that were rental projects, only one was shown to be feasible, but it did not satisfy the city's mandatory inclusionary policy. While not yet ready to make recommendations, the committee members accepted the findings as accurate. Multiple development experts who reviewed the analysis for The Chronicle said it appeared to be well done.

The analysis did not look at possible methods for reducing project costs, such as employing cheaper labor or using a modular approach that constructs much of the housing off-site in factories.

With affordable housing requirements so ingrained in a city with sky-high rents and home prices, the committee's findings are likely to be controversial.

"Developers only want to lower inclusionary so they can make more money, and that's always their goal," said Sarah "Fred" Sherburn-Zimmer, executive director of the Housing Rights Committee of San Francisco, a tenant advocacy group.

She also said it seemed premature to weaken the inclusionary requirements, one source of precious low-income housing.

"They're penciling it out at this odd point in time when interest rates are high," alongside other elevated costs, she said. "That's not going to be the situation in two years in San Francisco."

If San Francisco is to meet the state's demands, it must build about 10,000 housing units per year, or twice the construction pace of its best years. If it doesn't hit its targets, the city could lose state money and control over its housing approval process, giving developers wide latitude to build what they want, where they want.

Many committee members said that, based on the analysis, the situation was so dire that watering down or even ending the inclusionary policy wouldn't be enough to immediately put shovels in the ground. Other policy changes

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New Plans Reveal Tallest Proposed Tower in Berkeley at 28 Stories

Andrew Nelson, SF Yimby, December 14, 2022

New plans reveal that 1998 Shattuck Avenue has again become the tallest proposed tower for Downtown Berkeley, Alameda County. The 28-story project is now two floors higher, 40 feet taller, covers two additional parcels, and, most significantly, residential capacity has doubled to 599 apartments. NX Ventures is the project developer.

NX Ventures President & Founder Nathan George, has told YIMBY that the firm is "pushing full steam ahead on this site as a priority within our pipeline." NX Ventures has proposed various transit-oriented projects across the city in collaboration with Trachtenberg Architects.

If built as proposed, 1998 Shattuck Avenue will become the tallest structure in Berkeley, even surpassing the 307-foot Sather Tower Campanile as the city's tallest structure. The current tallest building in Berkeley is the 1971-built Chase Building, with a rooftop height of 186 feet. The next tallest is the 176-foot Wells Fargo Building from 1926, followed by the recently completed 168-foot Residence Inn By Marriott.

Two other proposals in the city's pipeline are contending to be the tallest building in Berkeley: the recently-increased proposal for a 284-foot tower at 2128 Oxford Street and the 268-foot tall plans for 2190 Shattuck Avenue. The three proposals each occupy the only remaining tall building lots in the city's current zoning map.

George emphasized that, for the new plans, "the biggest change is that we are in contract for the two additional parcels... That gives us additional density, so the restaurant is taller with a nice wrap-around deck and plenty of room for everything" With the expanded plans, 1998 Shattuck will extend across the site from University Avenue to Berkeley Way. Garage access will be featured along University, with five retail spaces extending from University across Shattuck. The flexible retail space could allow for as many as ten retail tenants.

The 317-foot tall structure will yield about 412,400 square feet with 396,030 square feet for housing and 16,370 square feet for commercial space, split between ground level and the rooftop. The project uses the State Density Bonus program, exceeding base zoning by 50%. Of the 599 units proposed, 60 will be deed restricted as affordable housing for prospective tenants earning less than half of the Area Median Income. Current plans include parking for 154 cars and 256 bicycles, though further access is expected on the ratio to meet future tenant and retail needs.

The increased proposal for 1998 Shattuck now includes two additional residential floors, a double-height ground level, and 14-floor ceilings for the amenity spaces on floors

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The Nuts & Bolts: Can "Porch Pirates" be Thwarted?

Tiffany Van Buren, BPOA Deputy Director

What You and Your Residents Can Do to Safeguard Parcels from Package Theft

Around 260 million packages disappeared from porches across the US over the last year, according to a survey conducted by SafeWise.com, with the cities of the San Francisco Bay Area ranking as having the most porch piracy in the whole state despite California coming in as the 11th most worrisome state overall. Online shopping continues to hold strong, with one in five households having packages delivered at least once a week, some several times a week. Package theft is a crime of opportunity, and with statistics like that, there are opportunities aplenty. What's more, the risk is very low since police have more serious crime to attend to than chasing down your Amazon package — so it's up to end consumer to mitigate the risk of package theft.

How do I prevent package theft, you ask? There are several things you can do! Feel free to pass these suggestions along to your residents; no one is immune from Porch Pirates.

- **Track your packages**: Sign up for tracking alerts so you know when to expect your parcel and even get an immediate alert when it's been delivered.
- **Arrange for "sign on delivery"**: If you're not home to sign for your package, the carrier doesn't leave it.
- **Use an Amazon Locker**: There are eight publicly accessible locations in Berkeley, and nearby in Oakland (at Safeway on College), they're open 24 hours a day.
- **Use your work address**: Have a parcel sent to your workplace if that's where you are during normal delivery hours.
- **Use a friend's address**: Do you have a work-from-home friend? Buy them a gift card to their favorite coffee shop in exchange for allowing you to have your parcels shipped to their address.
- **Choose to pick-up from the carrier**: UPS and FedEx both offer this as an option, as does the USPS.
- **Sign up for Informed Delivery**: Offered for free by the USPS, you will receive a daily email with scans of that day's mail and tracking numbers for any packages handled by USPS. FedEx and UPS also have free services that provide detailed tracking info for packages sent both by and to you.
- **Keep packages hidden from view**: Parcel lockers for porches are expensive, but sometimes all you need to do is have something on your porch that shields your parcels from view. Be creative; a plant, a bamboo mat screen — anything that obscures cardboard a bit so it doesn't scream "grab me."
- **Install doorbell cameras**: The Google Nest Doorbell (rechargeable battery-version) can be coupled with a mounting plate (both are sold on Amazon) and attached to the front door with a wingnut! It is wi-fi ready, easily removable for charging and requires no drilling. Sometimes a camera gives us a little added peace of mind, even if it won't deter 100% of thieves 100% of the time. It won't damage your property, your tenant can invest in it with their own money, and they can take it with them when they move.

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28 Story Tower Proposed for Berkeley

two and 14, thus raising the rooftop by 40 feet. Speaking on the phone with YIMBY, George disclosed that the firm is considering opening the amenities at 1998 Shattuck as a club-accessible space for a program open to residents at other NX Venture projects across Berkeley.

A rooftop restaurant will cap the tower with panoramic views across the East Bay. George explained that "we're thinking of the restaurant as being a destination place for bringing people from all over the East Bay." Basement parking will be included for restaurant customers and staff. By creating a regional attraction, NX Ventures hopes to have "spillover effects for the rest of Downtown," attracting more visitors and increasing the block's foot traffic and economic activity.

Future residents will be just a block away from the Downtown Berkeley BART Station and one block from UC Berkeley. While George sees it as inevitable that some college students will look at the apartments, the project is expected to appeal mainly to young professionals in the region. George said, "we see this as a destination location for people who want to work in Oakland and San Francisco and live in Berkeley."

Trachtenberg Architects is responsible for the design. Renderings show the building wrapped with an off-white metal cladding punctuated by floor-to-ceiling windows. The covered outdoor decks will create focal points on the 14th floor and rooftop. Along the base, the retail will be wrapped with double-height curtain wall glass.

City Approves Housing Plan, with Pledge to Upzone Wealthy Neighborhoods

Nico Savidge, Berkeleyside, January 19, 2023

The Berkeley City Council approved an eight-year housing plan on Wednesday that commits to rezoning several major streets in an effort to encourage denser development in some of the city's wealthiest neighborhoods.

Council members also took a step toward making it easier for property owners to demolish houses and replace them with duplexes, fourplexes and other small apartment buildings as part of the city's move to add housing in areas long zoned only for single-family homes.

The 656-page plan, known as a Housing Element, is now before regulators from the state Department of Housing and Community Development, who will decide whether the document constitutes a realistic and legal roadmap for how Berkeley will add at least 8,934 new homes by 2031.

If state officials reject the plan — as they have with scores of Housing Elements from cities across California — Berkeley could be stripped of its local zoning authority and lose access to valuable grant programs.

But planning staff and other city officials say they're confident that won't happen. Mayor Jesse Arreguín argued Berkeley's plan charts a "sustainable, equitable and affordable" path for the city to meet state mandates and respond to the housing crisis.

"We have an opportunity with this Housing Element update to demonstrate our values: that we are a city of inclusion [and] that we believe in fair housing," Arreguín said.

Councilmembers were split on a more controversial proposal to loosen rules for home demolitions, which was dialed back in the face of opposition from tenant advocates who worried the change would make it more attractive for landlords to tear down rent-controlled housing.

Supporters said the item, also authored by Kesarwani, would make it easier for property owners to construct "middle housing," or smaller multi-unit buildings in neighborhoods mainly made up of single-family homes.

They argue Berkeley should let property owners, in certain cases, get "by-right" approval to tear down an existing home and replace it with a new project, meaning the city would grant the permit through an expedited process that doesn't involve a public hearing. Getting the OK for a demolition today requires going through the slower and more extensive use permit process. The amendment called for exempting any property that had housed tenants within the past five years from by-right approvals.

Commissioner Nathan Mizell was one of several members of the Rent Stabilization Board who opposed the amendment during the public comment period of Wednesday's meeting, saying any changes to Berkeley's demolition ordinance must be "scrutinized greatly," and that the board needed an opportunity to have a "full conversation" about them.

After the public comment period, Kesarwani announced revisions to several controversial aspects of the demolition amendment. Whereas the proposal originally committed that Berkeley would "amend the demolition ordinance to provide a by-right pathway," the wording was changed to say officials will only "consider amending" the ordinance. The revisions also limited the kinds of structures that could be eligible for by-right demolitions to only single-family homes, and added language pledging to discuss any changes at a joint committee of City Council and Rent Board members.

Kesarwani said finer details of a new approval mechanism for demolitions would be worked out in a public process over the coming year tied to Berkeley's updated zoning rules for low-density neighborhoods.

"We will have a process to determine how exactly we would go about doing this, to ensure we have protections for rent-controlled units, for tenants and for historic or landmarked structures," she said.

Still, three councilmembers — Sophie Hahn, Kate Harrison and Susan Wengraf — voted against the demolitions amendment, and echoed concerns that making it easier to tear down existing homes could create problems for renters.

"There are a lot of tenants living in single-family homes," Harrison said. "I want to have the maximum tenant protections."

California Legislative Outlook 2023

California Rental Housing Association

New Legislature

The 2023-24 California legislative session gaveled in on December 5, comprised of the largest freshman class the Capitol has seen since term limits were enacted over a decade ago. Of the 120 total lawmakers, over a quarter are new faces (34 to be precise). Ten of these new members are in the Senate and 24 are in the Assembly. The significant turnover this election cycle was due in large part to the legislative redistricting that was finalized in late 2021, which drew several incumbents into the same districts and significantly changed the constituent demographics for many others. 2022 has often been referred to as "The Great Resignation" because of the almost weekly announcements that lawmakers were either resigning and leaving their seats early, or not running for reelection.

While all the fresh faces present an opportunity for clients to develop new relationships and educate these new members on pertinent issues, the Legislature is still a deep shade of blue and progressive interests will dominate. Democrats were able to pick-up a net gain of two seats in the Assembly and one seat in the Senate compared to the prior legislative session, further bolstering their supermajorities. New legislators arrived at the Capitol with their own, individual priorities, which will manifest as bills are introduced over the first six weeks of session.

According to the US Department of Housing and Urban Development, California accounted for 30% of the country's homeless population despite making up less than 12% of the total population.

Policy Priorities

Although, the deadline to introduce legislation is not until February 17, there are several key priorities and issues impacting the state that will be at the front of policy discussions this year, including homelessness, housing and affordability, climate change and energy reliability, healthcare, and more.

Oil Industry

In response to last year's rising gas prices, Governor Newsom announced the convening of a Special Session to move legislation this year to create a price gouging penalty on oil companies. In addition to penalties, the Special Session allows for the Legislature to consider allowing state agencies to review gas costs, profits and pricing more closely, and provide greater regulatory oversight on the refining, distribution and retailing segments of the gasoline market in California. A few measures were introduced in the space when the Legislature reconvened in December, including SBx1 2 (Skinner), which establishes a maximum gross gasoline refining margin and ABx1 1 (Ting), which will ensure only one oil refinery is undergoing scheduled maintenance at a time. We will certainly see more introduced during the Special Session, which does not adhere to the same Legislative deadlines as the Regular Session.

Homelessness & Housing

According to the US Department of Housing and Urban Development, California accounted for 30% of the country's homeless population despite making up less than 12% of the total population. Last year, two critical measures were signed into law that aim to speed up affordable housing development in former commercial areas were signed into law and this year, local governments have until January 31 to submit blueprints requiring the state to plan for 2.5 million homes by 2030. While previous measures are being implemented, California leaders will continue to move forward with additional efforts and funding to address these two critical issues.

Healthcare

As California embarks on a multi-year plan to dramatically overhaul Medi-Cal, the Department of Health Care Services (DHCS) announced new contracts last week with five commercial health plans to deliver health care services to the state's Medi-Cal population. Last year, DHCS initiated a procurement process that went sideways and led to some plans threatening litigation. Subsequently, DHCS announced on December 30 that it canceled the procurement and reached an agreement with five commercial plans on a new contract. The new contracts will go into effect in 2024, along with the Kaiser statewide Medi-Cal contract. In the new contract, DHCS states that all plans "will be held to new standards of care and greater accountability." This is consistent with

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The **California Energy-Smart Homes** program provides incentives for adopting advanced energy measures and transitioning to all-electric. The program offers cash incentives for single family, duplex, triplex, multifamily low-rise, and ADU properties converting gas appliances and equipment to advanced electrical systems including heat pump space heating, heat pump water heating, electric or induction cooking, and electric clothes drying.

Energy-Smart Homes incentives are available for electric utility customers in PG&E®, SCE®, and SDG&E® territories through 2025 and can layer with TECH Clean California incentives where available.

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Alameda County Ends Criminal Checks on Tenants

Shwanika Narayan, San Francisco Chronicle, December 22, 2022

On December 20, 2022, Alameda County became the first county in the nation to prohibit landlords from conducting criminal background checks on prospective tenants. Four of the five supervisors voted yes on the ordinance, and one abstained from voting. The new law takes effect after the county's eviction moratorium, put in place during the COVID pandemic, expires on April 30.

The Fair Chance Ordinance — part of a package of three tenant protection bills the county Board of Supervisors voted on Tuesday — applies to most residential units in the unincorporated communities of Ashland, Castro Valley, Cherryland, Fairview, San Lorenzo and Sunol. It also prohibits private and public landlords from requiring applicants to disclose previous arrests or convictions, and disallows advertising that discourages people with criminal histories from applying for housing.

The vote comes two weeks after supervisors delayed a decision to fine-tune details of the measure and as landlords objected to the new regulations, which also created a rental housing registry and approved a Just Cause for Eviction policy governing when and how a tenant can be evicted.

Proponents of fair-chance laws say they provide a legal recourse for tenants who've been unfairly treated based on past convictions. They also say the laws reduce homelessness, family separation and recidivism by increasing access to housing for formerly incarcerated people and their families. Opponents say the policies limit landlords' control and increase liability.

"I don't think it is a good idea — historic information about an applicant is important in evaluating whether the applicant will be a positive contribution to the community and does not pose an unreasonable safety risk," Daniel Bornstein, a Bay Area attorney representing landlords, said through email.

Bornstein said it's easier to screen out prospective tenants who will be disruptive or pose a health or safety risk than it is to displace them through the eviction process. However, his advice to landlords is to follow the new law.

The cities of Oakland and Berkeley banned routine criminal background checks in most housing applications in 2020. Richmond, in 2016, and San Francisco, this year, put narrower laws in place. Portland, Ore., and Seattle also have local laws banning criminal background checks in housing.

The accumulation of these policies is happening at the same time as the federal government is taking a harsher view of their opposite.

So-called "crime-free" housing policies that make it easier to evict tenants and that are enacted on a local level have become a target of the federal government. The U.S. Department of Justice last week secured a nearly $1 million agreement with the city of Hesperia (San Bernardino County) and the San Bernardino County Sheriff's Office over a since-repealed ordinance that federal prosecutors argued was racially discriminatory and actually led to the eviction of people of color who were reporting crimes or calling for help.

There are approximately 2,000 such policies nationwide, Assistant Attorney General Kristen Clarke told the Los Angeles Times.

QUOTE OF THE MONTH

The problem with people who have no vices is that generally you can be sure they're going to have some pretty annoying virtues.

— Elizabeth Taylor

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California Legislative Outlook 2023

California Advancing and Innovating Medi-Cal (CalAIM), the department's Medi-Cal reform initiative which will continue implementation in 2023 to create a more streamlined health care system.

There will likely be increased legislative scrutiny on CalAIM to ensure DHCS is meeting necessary benchmarks. Beyond CalAIM, last session's efforts to pass universal healthcare were derailed when proponents did not have the votes in the Assembly to move it forward. For that reason, it is very possible that legislation will be introduced in 2023 to move California to a universal healthcare system. Mental and behavioral health and health equity will also continue to be healthcare priorities for this Legislative Session.

Climate Goals

At the end of session last year, the Governor and Legislature doubled down on California's climate goals. In December, The California Air Resources Board, which oversees enacting regulations to achieve those goals, approved their Scoping Plan to meet its 2030 emission-reduction goals (40% reduction of 1990 levels). This week, the Legislative Analyst's Office raised doubts about the state's cap-and-trade program, suggesting the program is not stringent enough to meet the state's short-term goals. We anticipate several additional measures to further tackle the state's climate goals, including further changes to the cap-and-trade program.

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Editorial

Chip Roy and some of the MAGA group have a serious point to make. In addition to too much spending, they were concerned as to how the leadership of both parties have controlled allocations, largely cutting most backbenchers out of the process. They repeatedly pointed to the $1.7 trillion spending bill the house recently rammed through with capitulation on both side of the aisle, each of which got enough goodies to pass the bill. House members were given only hours to peruse 4,000 pages of enumerated expenditures. Sounds like each representative had just enough time to make sure that his/her pet earmark for an eponymous transit station in his/her district was on the list.

Any proposal for government funds must begin in the House. This is embedded in the Constitution. Neither the Senate nor the President can do any more than suggest that funds be allocated in any specific way. The House and only the House can actually put forth a Federal budget for consideration. Is it too much to ask that this process be transparently done in a careful manner?

Apparently only a small group of supposed crazies in the House seem to care.

Join Us for Quarterly Social Mixers with Fellow Members

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

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

DATE	TOPIC
Thursday, February 2, Noon	**Getting the Most out of Your Rental Applications & Screening**
Wednesday, February 8, Noon	**Becoming Pet-Passionate: Increasing Profits by Lifting "No Pet" Policies**
Thursday, February 16, 3:00 PM	**Monthly Owners Forum with Sam Sorokin, Premium Properties**
Thursday, March 9, 3:00 PM	**April Showers Bring May Flowers but Don't Let Water Become a Problem!**

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.

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Builders Bemoan Housing Hurdles

should be on the table to encourage construction, like reducing or delaying the fees to the city that cover projects' local impacts, or speeding up development in a manner similar to what voters rejected in November.

At the committee meeting, member Sarah Dennis-Phillips, senior director at real estate developer Tishman Speyer, floated reducing the inclusionary program's requirements on stalled projects, containing thousands of housing units, that have already received some level of approval from the city and might revive if they become less costly to build.

That type of path presents a problem, Jones said: "If you cut inclusionary too significantly, that puts us out of line for our" state mandate.

That's because San Francisco must satisfy more than half of the state's housing goal with low- and moderate-income units. If fewer come from market-rate projects, how else will they be built?

City Hall should spend more money on fully affordable housing projects, said committee members Peter Cohen and Fernando Martí, former co-directors of the Council of Community Housing Organizations, a coalition of groups representing affordable-housing developers and tenant advocates. A potential funding source is the city's real estate transfer tax, increased by the passage of Proposition I in 2020, Cohen and Martí said.

If the city wanted to buy land, "now is the time to do it," Martí said. Century | Urban's report estimated that the cost of land where construction is not already planned is now lower than during the 2011-13 period, after the recession.

New funding sources, like an affordable-housing bond or tax measure on the next ballot, are also necessary, Cohen said. The difficult economy might make that an easier sell to voters — even to the "comfortably housed," like homeowners who say, "I have kids, they left and came back and they can't afford to live in San Francisco," Cohen said.

The city should also consider policy changes that would quicken and reduce the price of affordable-housing construction, said Rebecca Foster, committee member and CEO of the Housing Accelerator Fund. To qualify for city dollars, a project must use contractors that meet strict criteria, and when they're hard to find it can increase costs.

"The regulatory burden that we place on getting affordable housing funded — I haven't seen anything like it anywhere else in the country," Foster said.

San Francisco's Largest Landlord Defaults on Massive Loan

J.K. Dineen, San Francisco Chronicle, January 12, 2023 [abridged]

Veritas, San Francisco's largest and most controversial landlord, is scrambling to raise capital after defaulting on a $448 million loan.

Last week, the Fitch Ratings reported that the property owner was in default on a $448 million loan, which is secured by a portfolio of 1,734 rent-controlled units in 62 buildings across San Francisco.

The default shows the challenges that San Francisco real estate owners will grapple with as loans become due. Many properties — office buildings, hotels and apartments — were financed with 10-year loans in 2013, which means that debt needs to be paid back this year, according to John Manning, a veteran real estate financing executive with Marcus & Millichap.

In a statement, Veritas said "the multifamily real estate sector is facing many of the same financial challenges as have been reported on for other asset classes including office, retail, and hotel-hospitality right now, including the spiraling costs of debt."

"While we've all seen the stories about office usage going down in the wake of hybrid work, multifamily operators in San Francisco must contend with even more challenges, including increased city regulation, increased taxes, more pandemic impacts, and the rising cost of doing business here," the spokesman said. "Recent corporate layoffs and relocations have affected apartment demand too."

The Veritas predicament comes as more commercial mortgage backed security loans, known a s CMBS, are in default. In December, the CMBS delinquency rate increased slightly, according to Fitch.

Janan New, executive director of the San Francisco Apartment Association, said the city's inability to recover from the pandemic has left many landlords with buildings that don't produce enough revenue to cover debt payments.

"The real estate industry is cyclical — we have up cycles and down cycles and we are clearly in a very severe down now brought on by an exodus of workers during the pandemic," said New. "We have to figure out a way to bring back jobs," she said.

Veritas was founded in 2007 by Yat-Pang Au. During the Great Recession the company bought a portfolio of bank-owned buildings that had been owned by companies affiliated with the Lembi family, which went bankrupt in 2010. Since then, the company has been sued multiple times by tenants groups that argue that the company and its affiliates are engaged in illegal business practices based on improperly evicting rent-controlled tenants and replacing them with tenants who pay higher rents.

Brad Hirn, an organizer with the Human Rights Committee, a tenant advocacy group, said Veritas' unwillingness to pay what it owes represents a double standard.

"The basic business plan requires a steady increases in operating income from these buildings. Here they are talking about the spiraling cost of debt but at the end of the day, when their tenants can't pay their rent, through no fault of their own, Veritas refuses to negotiate," said Hirn. "We have 25 Veritas members in eviction court for rent debt."

"If your business plan requires you to constantly raise rents in order to pay off the loan, maybe that is not compatible with what San Francisco is trying to do in terms of homeless prevention," he added.

Under Attack Again: Costa-Hawkins — What is It and Why Should You Care?

By Daniel Yukelson, Executive Director, Apartment Association of Greater Los Angeles

The Latest Threat to Our Livelihoods and Retirement

California's rental housing providers are again under attack by a well-known and controversial adversary, Michael Weinstein, the President of the AIDS Healthcare Foundation. Called the "Justice for Renters Act," this proposed, November 2024 statewide ballot initiative would eliminate the protections rental housing providers have today under the Costa-Hawkins Rental Housing Act (Costa-Hawkins).

The proposed initiative gives full control over rent control regulations to local governments, and if this initiative passes, the result for the rental housing business will be disastrous. If passed, local jurisdictions could (and many will) impose price (rent) controls on vacancies when rental units turnover (so-called "vacancy control") and these local jurisdictions could also impose rent control on single-family homes and condominiums and on newly constructed buildings (or buildings constructed after passage of a local rent stabilization ordinance). Under current law, because of Costa-Hawkins, rental property owners are free to price vacant units at going market rental rates (so-called "vacancy de-control") and various properties are also exempt, "free and clear" from local rent control such as single-family homes, condominiums, and properties within a jurisdiction constructed after a local rent stabilization ordinance was passed. Effective in 2020; however, Assembly Bill 1482, the "Tenant Protection Act of 2019," imposed state rent control on properties exempt from local rent control that were constructed 15 or more years ago, but still exempts single-family homes, owner-occupied duplexes, and condominiums, among other property types.

Calling all property owners: it is not just for apartments — single-family homes and condominiums will also be adversely impacted.

During 2018 and 2020, the multifamily rental housing industry stood its ground in the fight for its life against two ill-conceived, rent control ballot initiatives, Proposition 10 (2018) and Proposition 21 (2020). Twice in just two years, the multifamily rental housing industry stood its ground and defeated these ballot initiatives by large margins and deploying hundreds of millions of dollars in each instance. In response to this latest threat to housing providers, the Apartment Association of Greater Los Angeles is working to organize a strong opposition with industry stakeholders to defeat this attack on our livelihoods and retirement income, but it will take money, lots of money.

Threats Against Costa-Hawkins

Costa-Hawkins has been threatened with repeal both in the state assembly, and by well-organized, and well-funded tenants' rights groups who have submitted ballot initiatives such as past Propositions 10 and 21, and the latest so-called "Justice for Renters Act." We rental housing providers are again under attack! If Costa-Hawkins is repealed through the "Justice for Renters Act," many local municipalities will dramatically expand rent control, including the usual suspects like Santa Monica, Los Angeles, Berkeley, San Francisco, and others.

In 2018, a state bill, Assembly Bill 1506, that had been proposed by then Assembly Member Richard Bloom, a Democrat from Santa Monica, would have repealed Costa-Hawkins if passed. However, that bill had been put on hold by the author amid fierce opposition from the rental housing industry and never again saw the light of day.

This latest threat to Costa-Hawkins is once again being led by tenant advocacy groups and Michael Weinstein, President of the AIDS Healthcare Foundation who was the principal funder of past Propositions 10 and 21. The AIDS Healthcare Foundation and its tenant advocacy groups are extremely well organized and funded, and if the past is any indication, will likely raise and deploy more than $80 to $100 million to ensure this latest initiative gets on the ballot and is passed. The proponents of this latest ballot initiative will soon be "on the street" seeking signatures to secure its place on the November 2024 ballot.

The rental housing associations have always come through and been able to defeat similar attacks against our industry at the State level several times before. However, this initiative will take everyone's financial support and advocacy to defeat! We ask that each of our members keep informed, attend Apartment Association meetings, write letters to your legislature, and actively help us to overcome the looming threat to our property rights. You need to care about Costa-Hawkins. Together we can win!

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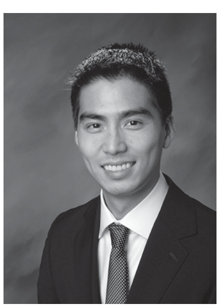

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