

President's Message

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Happy New Year! Or, is it???

Last month's President's Message discussed the proposed new ordinance that would significantly amend Chapter 26 of the Santa Barbara Municipal Code which governs the residential rental units located within the City of Santa Barbara that are not exempt. Remember, if you have taken the proper steps to inform the tenant that your residential rental unit that qualifies to be exempt is exempt, then you are exempt from all of these laws. Secondly, remember that the tenant has to be a "qualified tenant" and that means that they have lived in the unit for at least 12 consecutive months.

So, what happened on December 5th at the Ordinance Committee hearing on this new, proposed ordinance amending Chapter 26? After public comment, the committee consisting of Chair Councilmember Oscar Gutierrez, and Councilmembers Kristin Sneddon and Mike Jordan, voted to continue the hearing until the following Tuesday, December 12th but closed public comment. On December 12th, public comment was reopened but to no avail. The ordinance committee voted unanimously to approve this to go to the City Council for adoption. The Committee added suggestions from the Santa Barbara Legal Aid Foundation and tenant groups and some members commented that they did not think this ordinance went far enough.

When this ordinance will be heard in January, we urge you to show up and make your concerns known. We urge you to write to the City Councilmembers and the Mayor prior to that time and give them time to think about your comments. You simply Google Santa Barbara City Council and there will be a place to click to "write to the Mayor and City Council" so that you only need to write one email. Do it, please. It is important that they know your views. SBRPA will inform you of the date and time as soon as we know it.

In addition to all of the concerns discussed last month such as the right to resent for 2 years, getting an independent contractor to declare under penalty of perjury that the tenant could not remain in the premises during the remodel, etc., I

promised you to discuss the entirely new section of the code.

Section 26.60 entitled Protection of Tenants.

26.60.010 A. states: "

It is a violation of this Section for an Owner or the Owner's agent, contractor, subcontractor, or employee, to willfully engage in a course of conduct that adversely affects a tenant's use or enjoyment of a rental unit, housing opportunity, or housing related services or facilities, that serves no lawful purpose, and includes but is not limited to the following:"

You cannot reduce or eliminate any services that the tenant had including parking or access to common areas or amenities. You must not fail to perform and timely complete necessary repairs. You must not fail to exercise due diligence in completing repairs once begun and must follow protocol to minimize exposure to noise, dust, lead paint, mold, asbestos or other building materials with potentially harmful impacts. You must not abuse your right of entry into rental housing including entering or photographing portions of the rental that beyond the scope of the entry. You must not threaten a tenant by work or gesture with physical harm. You must not misrepresent to the tenant the he/she is required to vacate a rental unit or entice the tenant to vacate or misrepresent their rights under this Chapter.

You must not offer payments or other inducements to a tenant to vacate more than once in any six months if the tenant notifies you in writing that he/



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she does not desire to receive further such offers.

You must not threaten to report a tenant or other person associated with the tenant to any local, state, or federal agency on the basis of their perceived or actual immigration status.

You must not inquire as to the immigration or citizenship of a tenant, potential tenant, additional tenant, occupant, prospective occupant.

You must not refuse to acknowledge or accept lawful rent payments.

You must not engage in any activity prohibited by federal, state or local housing anti-discrimination laws.

You must not retaliate, threaten, or interfere with tenant organizing activities including forming or participating in tenant associations and unions.

You must not retaliate, threaten or interfere with a tenant's right to petition the government for redress of grievances.

You must not interfere with a tenant's right to privacy including video or audio recording of any interior area of the rental, entering or photographing

portions of the rental beyond the scope of a lawful entry, unreasonable inquiry into a tenant's relationship status or criminal history or unreasonable restrictions on or inquiry into overnight guests.

If the owner as defined is perceived to do any of the above, the tenant may, under Section 26.20.020 institute civil proceedings regardless of whether the tenant still lives there.

Should the tenant prevail in court, he/she may be awarded: 1) actual damages, 2. Reasonable attorney fees and costs, 3. Upon a showing that the owner acted with oppression, fraud or malice, up to 3 times actual damages. In addition, the Court may impose civil penalties up to \$10,000 per violation and tenant relocation and "other appropriate relief." The Court may also award injunctive relief and "any other remedy provided by law."

These laws have not been tested yet; so, it remains to be seen what constitutes conduct worthy of a \$10,000 fine per violation.

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