

President's Message

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More good news from Friday, June 6, 2025. A U.S. federal appeals court ruled that the United States must face potentially billions of dollars in legal claims over a temporary ban on residential evictions during the COVID pandemic that affected millions of housing providers.

The Washington, D.C.-based U.S. Court of Appeals for the Federal Circuit in a 7-3 decision rejected the government's bid to overturn a decision by a panel of judges last year that refused to dismiss claims from housing providers seeking compensation caused by the eviction moratorium.

On August 7, 2024, a divided Federal Court Circuit panel, reinstated the claims against the United States in the case *Darby Development Company v. United States*, U.S. Court of Appeals for the Federal Circuit, No. 2022-1929. That case was filed by residential property owners over the eviction moratorium issued by the U.S. Centers for Disease Control and Prevention ("CDC") in September 2020 after the expiration of an earlier 120-day directive by Congress.

The CDC's order lasting approximately one year focused on combating the spread of the Corona virus.

The damages from rental property owners being blocked from evicting renters who were not paying rent have been estimated at tens of billions of dollars.

The lawsuit was brought under the U.S. Constitution's 5th Amendment "takings" clause arguing that the government had taken their private property for public use without just compensation.

In a filing in January, the government stated that the panel decision "upends over a century of precedent" and that the decision will have significant consequences in this case and others."

The June 6th ruling clears the way for the rental property owners' lawsuit to move forward. The United States may ask the U.S. Supreme Court to intervene to interpret the Constitution.

The technical analysis of the *Darby* case is that the government had argued that the CDC's eviction ban could not result in liability because it was "unauthorized."

The August 7th ruling reversed the Court of Federal Claims and held that the CDC's COVID-era eviction

moratorium plausibly constituted a physical "taking" of property under the Fifth Amendment of the U.S. Constitution. Although the CDC's actions may have lacked full statutory authority as the U.S. Supreme Court had held in *Alabama Association of Realtors v. HHS* the majority of the Federal Circuit rejected this argument, emphasizing the "authorization" in takings law does not strictly require valid statutory authority, so long as the government acted in good faith and within its general remit.

With the rehearing now denied on June 6th, the case will return to the Court of Federal Claims for further proceedings. The ruling carries significant implications for property owners seeking compensation for losses stemming from the pandemic-era eviction restrictions and signals that property owner lawsuits can proceed.

As I write this message, the April, 2025 CPI has just been published and will be effective for rent increases beginning August 1, 2025. The CPI for Santa Barbara County will be that for the State of California which is 2.7%. That means that for non-exempt properties, the maximum, cumulative rent increase in any 12-month period will be 7.7% (5% plus the CPI for our area of 2.7% = 7.7%). See page for 2025 CPI rates.

Thank you for your membership. Each of you is a valued member of our organization.

Sincerely,

Betty L. Jeppesen

President



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