

Jul | 2018

# SANTA BARBARA RENTAL PROPERTY news

CALIFORNIA'S CENTRAL COAST RESOURCE FOR RENTAL PROPERTY OWNERS, MANAGERS & SUPPLIERS

# SNIPMVAH VLSOC

Is the rental property business about to be turned upside-down?.....page 6





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# SANTA BARBARA RENTAL PROPERTY news



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SBRPA would like to recognize the following new and returning members.

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- Emma Anderson, Vidal Chiprez,
- Carol Del Ciello,
- Jules Kaupas,
- Helen & John-Michael Lind,
- Ron Madden, Lisa Meares,
- Cal & Perri Meland,
- Julia Peyton,
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## CALENDAR

**Wednesday, July 4th**  
**Independence Day -- SBRPA Office Closed**

HAPPY  
INDEPENDENCE  
DAY



**Thursday, August 2nd 8:00 a.m.**  
**FIRST THURSDAY SERIES: Coffee with Counsel**  
*Andersen's Bakery & Restaurant, State Street, Santa Barbara*  
Join us in reviving a favorite SBRPA tradition. An opportunity to meet other members for coffee on the first Thursday of the month at Andersen's Bakery & Restaurant. Each month we will feature a different special guest, who can informally counsel the group on issues we are facing.

RSVPs preferred so we can ensure adequate seating, but feel free to just drop in. RSVP to Angela at: (805) 687-7007  
[programs@sbrpa.org](mailto:programs@sbrpa.org)



Photo andersenssantabarbara.com

**Friday, October 26th**  
**SBRPA 2018 Annual Charity Golf Tournament**  
*Glen Annie Golf Club, 405 Glen Annie Rd, Goleta, CA 93117*



Our annual charity Golf Tournament takes place at Glen Annie Golf Club this year on Friday, October 26th.

This year's tourney will benefit Transition House.

Get ready for a day of fun and sun -- golfing, putting contest, prizes, raffles, auctions and more.

We hope you will join us as a sponsor or participant this year. Sponsorship Opportunities and Registration form in this month's magazine.



**NOTE: The SBRPA Office will be closed on Fridays throughout the summer.**

# Rent Control Is Coming To California's November Ballot. Here's What's At Stake.

By Kacey Gardner  
June 20, 2018

## What Is 'Rent Control'?

Rent control is a blanket term for laws that aim to protect renters. These ordinances do everything from limit how much landlords can charge for rent to dictate when and why they can evict a tenant, among other possible provisions.

Rent control takes different shapes. Sometimes, rent increases are determined by the city's cost of living. Others times, rent control is based on what a tenant is already paying, and mandates that any increases be limited to a percentage of that amount. Most of the time, rent control rules are aimed at preventing sudden rent hikes for existing tenants. But some cities historically have had what critics say are stricter regulations that limit the amount that can be charged on the open market.

Rent control laws might also require "just-cause" terminations — meaning landlords have to have a justifiable reason for evicting a tenant, such as not paying the rent or because the owner wants to move in to a property. Some ordinances say that if an eviction isn't the fault of the tenant, owners have to pay them.

Most cities create some sort of mediation process as part of their rent control policies. Often they'll establish a "rent board," which is either independently elected or appointed by officials. Both tenants and owners can petition a rent board for or against a change in rent amount.

More than a dozen cities in California have some form of rent control, including Alameda, Berkeley, Beverly Hills, East Palo Alto, Hayward, Los Angeles, Los Gatos, Mountain View, Oakland, Palm Springs, Richmond, San Francisco, San Jose, Santa Monica and West Hollywood.

## What Is The Costa-Hawkins Rental Housing Act And Why Do Activists Want To Repeal It?

This fall, California voters will decide whether to repeal the Costa-Hawkins Rental Housing Act. This state law was passed in 1995 and prevents cities from enacting rent control regulations on all single-family homes and condos, as well as any apartments built after 1995.

If a city already had a rent control ordinance on the books before Costa-Hawkins, then it considers a "new" apartment one that was built after that local law went into effect. For example, in Los Angeles, rent control can't be applied to most apartment buildings constructed after 1978, when the city passed its own rent control law.

The law also says that, once a tenant moves out of a rent-controlled apartment, a landlord can raise the rent to "market rate" prices. Previously, "vacancy control" regulations prevented this in some cities.

## Why Is Everyone Talking About Rent Control Now?

If you live in California, then you know: It's expensive, and increases in housing costs often outpace wage bumps. According to the National Low Income Housing Coalition's 2018 "Out of Reach" report, which documents the gap between renters' wages and the cost of rental housing, California renters would need to make \$32.68 an hour to afford a two-bedroom rental home without spending more than 30 percent of his or her income on housing costs. California's minimum wage is \$11 an hour.

In response to this affordable housing crisis, campaigns to expand rent control are underway in more than a dozen cities statewide, from Sacramento to Santa Rosa to San Diego.

Backers of the statewide initiative first lobbied state lawmakers to repeal Costa-Hawkins, but that effort died in its first committee hearing in January.





- Alameda 3, 32
- Berkeley 6, 7, 12
- Burlingame 18
- Fresno 17
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- Los Angeles 10, 16, 21, 27, 28, 33, 35
- Mountain View 29
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# California Tenant Activism Organizations

- 1. Affordable Housing Advocates (San Diego)
- 2. Affordable Housing Network (San Jose)
- 3. Alameda Renters Coalition
- 4. Anti-Eviction Mapping Project (San Francisco Bay Area)
- 5. Asian Law Caucus: Asian Americans Advancing Justice (San Francisco)
- 6. ASUC Housing Commission (Berkeley)
- 7. Berkeley Tenants Union
- 8. *Causa Justa*: Just Cause (Oakland, San Francisco)
- 9. CAUSE - Central Coast Alliance United for a Sustainable Economy (Santa Barbara)
- 10. Coalition for Economic Survival (Los Angeles)
- 11. Community Legal Services in East Palo Alto
- 12. East Bay Community Law Center (Berkeley)
- 13. *El Comité de Vecinos del Lado Oeste*, E.P.A. (East Palo Alto)
- 14. Eviction Defense Center (Oakland)
- 15. Eviction Defense Collaborative (San Francisco)
- 16. Eviction Defense Network (Los Angeles)
- 17. Fresno Interdenominational Refugee Ministries (FIRM)
- 18. Housing for All (Burlingame)
- 19. Housing Long Beach
- 20. Housing Rights Committee of San Francisco
- 21. Inner City Law Center (Los Angeles)
- 22. Isla Vista Tenants Union (Santa Barbara)
- 23. Law Foundation of Silicon Valley
- 24. Legal Aid Society of San Mateo County
- 25. Legal Assistance to the Elderly (San Francisco)
- 26. Long Beach Residents Empowered (LiBRE)
- 27. Los Angeles Human Right to Housing Collective (LA Community Action Network, LA Anti-Eviction Campaign, Legal Aid Foundation of Los Angeles, People Organized for Westside Renewal, Union de Vecinos and Women Organizing Resources Knowledge and Services)
- 28. Los Angeles Tenants Union
- 29. Mountain View Tenants Coalition
- 30. Oakland Tenants Union
- 31. Pasadena Tenants Union
- 32. Renewed Hope Housing Advocates (Alameda)
- 33. Renters Day Los Angeles Coalition
- 34. Sacred Heart Community Service (San Jose)
- 35. SAJE-Strategic Actions for a Just Economy (Los Angeles)
- 36. San Diego Tenants United
- 37. San Francisco Tenants Union
- 38. Santa Monicans for Renters' Rights
- 39. South Pasadena Tenants Union
- 40. Tenderloin Housing Clinic (San Francisco)
- 41. Urban Habitat (Oakland)

# BIRTH OF A BALLOT INITIATIVE: THE AFFORDABLE HOUSING ACT

The Coalition for Affordable Housing is leading the campaign to reverse Costa Hawkins with a ballot initiative they named "THE AFFORDABLE HOUSING ACT. " The primary sponsor of the Coalition is Michael Weinstein's Aids Healthcare (providing 99% of funding). The other two sponsors? California Nurses' Association and AFSCME Local 3299 (University of California's largest employee union, representing more than 24,000 employees at UC's 10 campuses.)

Tenants Together, a statewide tenants' group, coordinated the efforts of 41 local tenant groups and numerous other organizations to gather signatures to qualify the initiative for the November 6, 2018, General Election ballot. (See "California Tenant Activism Organizations Map".) The voter initiative needed 365,880 signatures to qualify. They procured over 400,000 signatures. The Attorney General's official title and summary of the initiative is as follows:

## THE AFFORDABLE HOUSING ACT (17-0041)

EXPANDS LOCAL GOVERNMENTS' AUTHORITY TO ENACT RENT CONTROL ON RESIDENTIAL PROPERTY. Repeals state law that currently restricts the scope of rent-control policies that cities and other local jurisdictions may impose. Allows policies that would limit the rental rates that residential-property owners may charge for new tenants, new construction, and single-family homes. In accordance with California law, provides that rent-control policies may not violate landlords' right to a fair financial return on their rental property. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Unknown, but potentially significant, changes in state and local government tax revenues. Net decrease more likely than net increase. Potential increase in local government costs of up to tens of millions of dollars per year in the long term, likely paid by fees on owners of rental housing.

This ballot initiative contains many problems. If it wins at the ballot, the only way to repeal or amend THE AFFORDABLE HOUSING ACT will be through another voter initiative. The California legislature cannot amend or revoke. Any court actions to challenge its constitutionality will be paid by taxpayers. Statewide protection against the most extreme forms of rent control will be eliminated in California. Local municipalities will have full discretion.

### The Initiative is Badly Flawed

Legal analysts warn the initiative includes several flaws, is vague and confusing, and could result in several unintended consequences that will actually make the cost of living higher for thousands of Californians. Specifically, the initiative:

- ✓ Includes different definitions of "landlord" and "owner" that will lead to legal confusion across the state's 482 cities and 58 counties and take years to work out in court.
- ✓ Requires taxpayers to pay the proponents' legal bills if homeowners, tenants or local voters challenge the law in court – even when they lose and spend millions on attorneys.
- ✓ Encourages homeowners to convert properties to more profitable uses, like condos and short-term vacation rentals, which will reduce the amount of long-term housing available for renters, drive prices even higher and make the housing shortage much worse.

### The Initiative Goes Too Far

The initiative goes too far and creates a massive shift of regulatory power to local government with no state oversight or accountability. The initiative:

- ✓ Empowers unelected rent boards and commissions to impose new rent control regulations and fees without a local vote of the people or even approval of elected city officials.
- ✓ Has no limit on how high unelected rent boards could drive up fees, making housing even more expensive.
- ✓ Opens the door to price controls on single-family homes when owners decide to rent a room or the home in the future.
- ✓ Handcuffs the State Legislature from adopting future statewide tenant or property owner protections.
- ✓ Could hurt California taxpayers with a potentially significant decrease in state tax money, meaning less money for schools, roads and emergency services.



The two most significant ramifications if AHA repeals Costa Hawkins?

1. *All types of housing* --- including single family and condominiums -- can be subject to rent control, regardless of the year built.
2. *"Vacancy decontrol"* will be eliminated. Currently, Costa Hawkins protects owners' right in rent control areas to reset the rent to the market rate when the unit is vacant. If Costa Hawkins is repealed, the rent will not be "decontrolled" during vacancy and allowed to catch up to the market rate. It may continue to be limited by a cap rate set by your local lawmakers and non-elected rent control boards.

Various cities are already preparing for the repeal of Costa Hawkins with local ballot initiatives for November 2018. As an example, below is proposed Santa Monica ballot initiative that calls for a "*windfall profit tax*" on rental income.

". . . Propose that the City of Santa Monica raise additional funds to enable the city to assist low-income rent-burdened Santa Monica residents and to develop additional affordable housing by placing before voters a 4-5% windfall profits tax on rental income collected by property owners on 1) all units that have been vacancy decontrolled since the adoption of the Costa-Hawkins Act and 2) all rental units in apartment buildings that have been built in Santa Monica since 1979 and that have never been rent controlled.

- a. Formulate the measure to ensure that property owners may not pass this tax through to current tenants of rent-controlled units.
- b. This tax should not apply to any rented single-family home, nor to any rented TORCA condominium, nor to rent controlled units that have never been vacancy decontrolled.

[Revenue from a 4-5% tax could reach \$25 M/year. And it is fair that property owners contribute a portion of the windfall profits gained from rents on previous vacancy decontrolled rental units whose rents are among the highest in the region and are derived from the very tight Santa Monica rental market and the exceptional amenities provided by our community. We believe revenues should be used toward ensuring the security of many long time Santa Monica residents who are rent burdened, many of whom are seniors with low incomes, and creating new homes in Santa Monica for low and moderate-income renter households. Rented single-family homes and non-TORCA condominiums should be exempt from the tax just as they are and always have been exempt from Santa Monica rent control.]

## **WE CAN'T AFFORD THE "AFFORDABLE HOUSING ACT"**

*What Can You Do?*

**1. DONATE TO SBRPA SO WE CAN EDUCATE OTHERS ABOUT THE NEED TO CREATE BETTER SOLUTIONS THAN THE AFFORDABLE HOUSING ACT.**

**2. BECOME PART OF THE SBRPA GOVERNMENT AFFAIRS COMMITTEE**

*The rental housing industry in California is being turned upside down. Right now tenant activists are dominating the narrative that is being presented to our elected officials at the city, county and state level. Soon it may be too late to change proposed legislation that will severely and negatively impact both rental property ownership and the availability of housing. That is why now -- more than ever -- our members need to come together and make their voices heard by our elected officials.*

*We need a diverse group to be part of the Committee to research, discuss, develop and communicate common sense solutions. If we don't speak up, the tenant groups and their solution of Rent Control will be the only voice heard in this discussion.*

***Join other committee members and help  
be the voice of Santa Barbara's Mom and Pop housing providers!***

***Speak up NOW.***

*Interested in learning more about joining us? Email Laura: [laura@sbrpa.org](mailto:laura@sbrpa.org)*

In May, SBRPA conducted a half-day program of **Move-In/Move-Out Turnover Tips**, with focus on:

- Rental criteria
- How to interpret Credit Reports
- A review of the Move-In/Move-Out legal forms.



And to CIC, our Credit Report Provider, who also furnished a tasty pasta & pizza lunch.



# Thank You

To our guest speakers, Caryn Bennett Compliance Manager with *Contemporary Information Corporation (CIC)* and G. Michael Brelje Associate Attorney with *Rogers, Sheffield & Campbell, LLP*.



## FIRST THURSDAY COFFEE & COUNSEL



SBRPA's First Thursday "Coffee and Counsel" inaugural meeting was held on June 7th, with guest speaker attorney David Grokenberger.



Photo courtesy of andersensantabarbara.com

2018 AUGUST						
SUN	MON	TUE	WED	THU	FRI	SAT
			1	2 SBRPA 1st Thursday	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Please join us at our First Thursday meetings where we will feature different guest speakers who will informally counsel our group on issues we are facing. Our next meeting will be held August 2nd at Andersen's Danish Bakery & Restaurant. You may drop in but if you know in advance you will be attending, please RSVP to Angela at 805-687-7007 or [angela@sbrpa.org](mailto:angela@sbrpa.org).



# SBRPA President's Message & CaIRHA/NAA Update

James Carrillo • CPM®, SBRPA President



Summer is in full swing, and the morning fog is giving way to afternoon sun. Kids are out of school, campgrounds are full, and families are beginning long anticipated vacations. With that will come thousands of tourists to experience, maybe for the first time, this Riviera by the Sea. As always, we welcome visitors from near and far, as tourism and hospitality are primary drivers of the economy in our beautiful city.

As property managers, we are always happy to see new and improved real estate developments in our town. If you have not had a chance, we encourage you to visit the Hotel Californian, the new \$200 million dollar luxury resort that has transformed the gateway to Santa Barbara proper. From its Moroccan-themed lobby to its rooftop pool, the Hotel Californian brings back the days of rail car visits to the central coast by visitors eager to see Santa Barbara in anything other than a car. A personal favorite would be the Goat Tree Restaurant for a leisurely weekend breakfast on an expansive outdoor patio that fronts State Street. Enjoy this new development by Michael Rosenfeld, already well known for his revamp of the famed Fairmont Hotel in San Francisco.

As you are aware, our lobbyists in Sacramento, along with our representatives from the California Rental Housing Association, have been fighting an uphill battle against a slew of bills in Sacramento that would be onerous for the property management industry. Three of the bills that we have frequently referred to are AB 2343 (Chiu), otherwise known as the "Unlawful Detainer" bill, AB 2925 (Bonta), the "Just Cause Eviction" bill and AB 2364 (Bloom), the "Repeal of Costa Hawkins" bill. Incredibly, we have good news on all three of these bills.

AB 2343 (Chiu) was amended in committee to the point that what remains of the bill is not necessarily harmful to our livelihoods. You will recall that this was the bill that would have granted exemp-

tions from evictions to anyone who professed to be a member of a "tenant association." That part of the bill was cut out. Although still alive, the only change we may see in unlawful detainers is an extension of a day or two in the unlawful detainer process. The bill is still going through committees, but again, has been amended significantly.

AB 2925 (Bonta), the bill that would have required a "just cause" to terminate any tenancy, failed in committee and will not advance through the legislature.

The same is true of AB 2364 (Bloom), the bill that would have repealed Costa-Hawkins. It was refused further passage through the legislature. Of course, we still have to worry about a ballot initiative in November that would also repeal Costa-Hawkins. Stay tuned.

All three of these "wins" are a testament to the tenacity of our lobbyists Steve Carlson and Jonathan Arambel. We thank them for their efforts on our behalf. In addition, these efforts are not always possible without your support of our Political Action Committee. Every dollar in support of our PAC allows us to continue to fight on your behalf on those issues most impactful to property owners and managers. Thank you for your generous support of our PAC.

Finally, we are gearing up for our annual golf tournament on October 26, 2018, at Glen Annie Golf Club. Sponsorship and registration materials will be sent out soon, and we are asking for your help finding sponsors, donating a raffle gift, or even better, just coming out with your fellow members and suppliers for an enjoyable afternoon of golf, networking and fun. Mark down that date; **Friday October 26, 2018, at Glen Annie Golf Course.** Registration will be at 9:30 a.m., and the shotgun start will be at 11:00 am. We look forward to seeing you there.



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Credit/Eviction/Criminal \$40

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Call 805-687-7045 and leave the following information on the prospective resident:

- Full Name – Last, First, MIDDLE INITIAL
- Current Address – Number, Street Name (Avenue, Road, etc.), City, State, Zip
- Former Address – If less than 5 years at current address
- Social Security Number, Birth date (MANDATORY), Drivers License # & State



# LEGENDARY INDIA & DUBAI

Join Members This February on an Ancient Journey



This February association members will come together for a tour across the fascinating and ancient country of India. Mark Twain said: *“India is the cradle of the human race, the birthplace of human speech, the mother of history, the grandmother of legend and the great-grandmother of tradition.”* Join fellow rental property owners as we set out to explore the highlights of this ancient continent. We will also go off-the-beaten path into the remote eastern regions of the country. This tour features land exploration as well as a week-long river cruise on the fascinating Brahmaputra River in the shadow of the Himalayas. We have even included a wonderful four night stop-over in Dubai on the way to India with touring in this spectacular city included. Below you can see some of the locations and highlights of this 27-day tour, which features everything from the Taj Mahal to a safari on elephant-back.

## UDAIPUR: THE “CITY OF LAKES”

- Stay in Beautiful Hotel Overlooking Lake Pichola, Famous for Lake Palaces
- Relaxing Boat Ride on the Lake at Sunset.
- Visit the stunning Jagdish Temple built in 1651
- Walk the Garden of Maidens & Lotus Pools / Explore Maharajah’s Palace
- Evening Scenic Dinner on the Mountain Overlooking the City

## DELHI: A CAPITAL BOTH OLD AND NEW

- Visit Sikh Gurdwara - “Sikh House of Worship”
- Experience “Old Delhi” and Narrow Alleys & Historic Sites
- Explore a Historic and Traditional Bazaar for Shopping
- Ride a Rickshaw into the Heart of Chandni Chowk (Silver Square)
- Visit the UNESCO site of Qutub Minar in the Plains of Delhi (c.1192)

## AGRA AND THE TAJ MAHAL

- Visit Village of Abhaneri & Marvel Chand Baori Step Well
- Explore the Itmad ud Daula, the Inspiration for the Taj
- Visit Mehtab Bagh Garden for Unique Taj Mahal View
- Dramatic Sunrise Visit to Legendary Taj Mahal (UNESCO)
- Visit the UNESCO Red Fort of Agra – Enjoy Mohabbat Taj Show

## RIVER CRUISE ON BRAHMAPUTRA

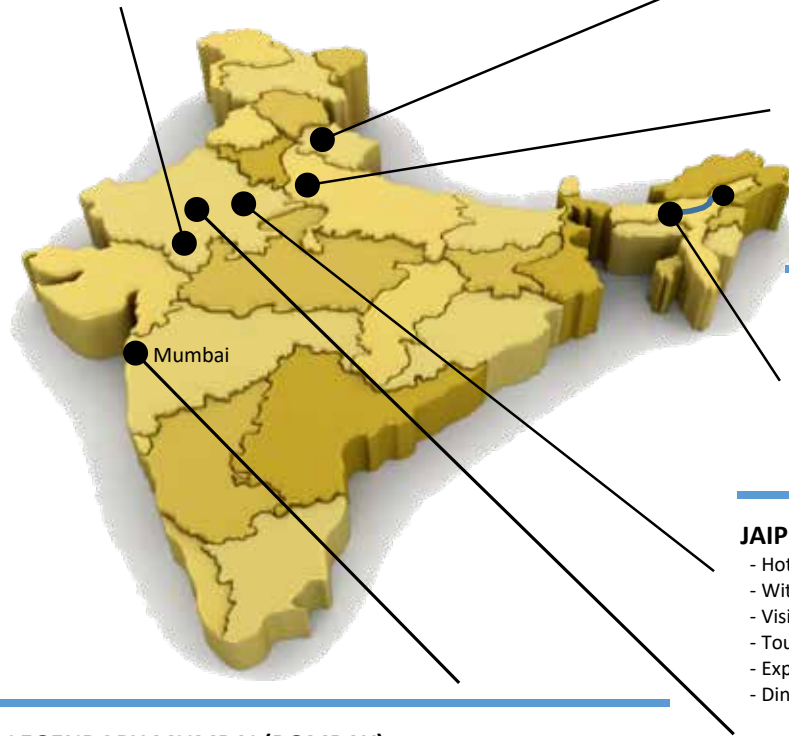
- Week-Long River Cruise on Stunning Brahmaputra River
- Wonderful included Cultural & Nature Touring on Riverboat
- Elephant-back Safari & 4X4 Adventure in legendary Kaziranga NP
- Tea Plantation Visit, Beach Bonfire, Village Visits & More
- Boat Safaris and Cultural Performances

## JAIPUR: THE “PINK CITY”

- Hotel on shore of Mansagar Lake with Jal Mahal Views
- Witness Breathtaking White Marble Birla Temple
- Visit Famous Amber Fort of Jaipur & Palace of the Winds
- Tour City Palace, Royal Residence & Jantar Astronomical Instruments
- Explore local markets in Jaipur, famous for Gems
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# Sacramento Report



Steve Carlson



Jonathan Arambel

## Mid-Year Assessment

As this article is being written in June, we have just passed the end of the official first half of this year's legislative session—not in terms of chronology but of process. All house of origin bills must have been approved by the Assembly or Senate by June 1<sup>st</sup> or the bill was dead. It is somewhat interesting that this deadline comes 5 months into the session, leaving the remainder of legislative activity to be dealt with in essentially two months, with adjournment August 31 and the month of July dark for the summer recess. One reason for this is that many of the bills that began the year will not make it to the next house, leaving relatively less work to do.

SBRPA and its apartment industry allies were successful in making sure that a number of very negative bills stayed in their first house. The top three bills on our "oppose" list, AB 2364 (Bloom) regarding the Ellis Act; AB 2925 (Bonta) the statewide "good cause" mandate and AB 2343 (Chiu) that would have greatly expanded the time periods for UD cases, were all still alive and problematic as we approached the end of the first half. AB 2364 (Bloom) and AB 2925 (Bonta) both failed to get enough votes to pass the Assembly Floor. While AB 2343 (Chiu) did pass the Assembly Floor, it was only after taking significant amendments to greatly minimize its negative impact.

This has proven to be a very difficult year for our industry, starting with our narrow defeat in January of AB 1506 (Bloom), which would have repealed Costa Hawkins. Even though we were successful in defeating several bad pieces of legislation, the most threatening is the initiative to repeal Costa Hawkins. That effort is now most likely going to be on the November ballot, with an estimated 50-60 million dollar opposition campaign cost. We have also seen an unprecedented number of attempts to qualify local rent control ballot initiatives.

Call it unfair, but the ultimate fate of many of the measures facing us this year is in your hands. Whether it is responding to red alerts to email or call your local legislator to ask him or her to vote against a bad bill, or reaching out to family and friends to ask them to join you in contributing so we have adequate funds to engage in the political process, including helping to fund the initiative opposition campaign, failure of property owners to

step up would be devastating. The initiative proponents are well-funded and aggressive. So keep reading the magazine, read the email blasts, and respond early, often, and generously to requests for action and contributions.

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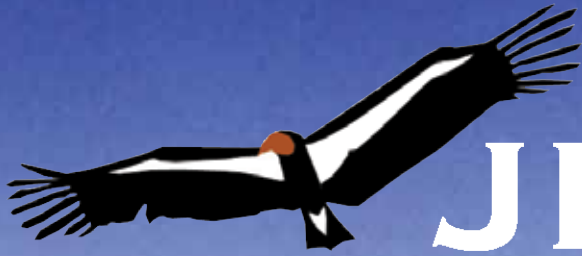
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# The Attorney's Corner

David M. Grokenberger, Esq. • Rogers, Sheffield & Campbell, LLP



## Mid-Year Legislative Update

With the summer upon us and 2018 marching forward, we would like to refresh the rental property community on new laws taking effect in 2018 that affect landlords, as well as provide insight on an active bill regarding unlawful detainer notices that could become law in 2019. Recent hot topics in California politics, climate change and immigration, are reflected in the new laws and increase disclosure requirements for landlords. Proposed legislation, which would take effect in 2019, would change the required content for a 3-Day Notice to Cure or Quit under Code of Civil Procedure section 1161(3), and how the three-day time period is calculated. These new developments are discussed in this month's article.

### Immigration Status

Assembly Bill 291, which was approved in October 2017 and took effect in 2018, made changes to portions of the government code, civil code, and code of civil procedure to provide immigrants with protection from discrimination and harassment. In Civil Code section 1940 et seq., which relates to the rental of real property, the definition of "immigration or citizenship status" has been updated to include "a perception that the person has a particular immigration status or citizenship status, or that the person is associated with a person who has, or is perceived to have, a particular immigration status or citizenship status" (Civ. Code, § 1940.05). Under the newly added Civil Code section 1940.35, Landlords cannot attempt to influence a tenant to vacate or attempt to recover possession of a rental property based on the tenant's immigration status. The law protects tenants whose landlords ask for social security numbers and validating documents after the landlord previously approved the tenant for occupancy. The protection extends not only to tenants, but to other persons "known to the landlord to be associated with a tenant or occupant" (Civ. Code, § 1940.35(a)).

Landlords who violate this Act could face civil penalties, including payment of fines equal to one year of the rent charged to the tenant in question.

Moreover, the statute allows nonprofit entities to file for injunctions under this section and provides for recovery of attorney fees and costs to a prevailing party that brings an action under this section. Landlords who unlawfully harass and discriminate against tenants in this fashion could face criminal punishment under a theory of extortion (Civ. Code, § 1940.35(b)(3); Penal Code § 519).

### Flood Zones

Prompted by severe flooding in San Jose that displaced thousands of residents, the legislature passed Assembly Bill 646, which took effect this year. The bill made changes to the government code by providing that landlords with "actual knowledge" that their property is in a flood hazard area are required to disclose this information to prospective tenants, along with other information about flood hazards and the fact that the landlord's property insurance does not cover the tenant's personal property (Gov't. Code, § 8589.45). A landlord has "actual knowledge" that the property is in a flood hazard area where he has been so notified by the government, or if his mortgage lender requires him to carry flood insurance (*Id.* at subd.(1)).

Landlords will have to make this disclosure in rental agreements starting July 1, 2018.

### Proposed Revision to Unlawful Detainer Laws - AB 2343

A proposal to amend Code of Civil Procedure section 1161 has been drafted as Assembly Bill 2343, an active bill which is currently in the state senate. Among other changes, the bill would essentially give tenants who receive a 3-Day Notice to Pay Rent or Quit, or a 3-day Notice to Cure or Quit, additional time to perform the act called for in the notice (i.e. either pay rent, cure a breach, or vacate). The amended Code would include a statement that the required three-day notice period would exclude Saturdays, Sundays, and other judicial holidays; whereas the code as currently written counts weekends and holidays as part of the three-day period for paying rent or vacating. The effect of this change, for example, would be that a 3-Day Notice to Pay Rent or Quit served on a Friday would

*Continued on page 25*

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now require rent payment or surrender by the end of Wednesday, while under the current statute it would be Monday.

Furthermore, the proposed amendment would add new language to section 1161(3), regarding breaches upon which a 3-Day Notice to Cure or Quit may be based. The proposed addition states

The notice shall fully describe the nature of the alleged unperformed duty, including the date, place, witnesses and any other relevant facts, as well as the manner in which the duty may be performed. The notice shall also state that, upon request, the landlord must provide reasonable accommodations to the tenant for any disability of the tenant that affects his or her ability to perform the duty. Within three days, excluding Saturdays and Sundays and other judicial holidays . . .

As you can see, the proposed addition to the notice contents is substantial. While it is always good for a landlord to ensure that it has a justifiable reason for serving a 3-Day Notice to Cure or Quit, and to be familiar with disabilities that impact a tenant's ability to comply with a lease, adding requirements to a 3-Day Notice could invite more demurrers, increase the cost of litigation, and further burden the court system. While the purpose of the amendment is to bolster tenant rights and ensure that the 3-Day Notice to Cure or Quit is only used when necessary, complicating the procedure might not achieve a net benefit.

AB 2343 would also amend Code of Civil Procedure section 1169, which provides for obtaining a defendant's "default" in an unlawful detainer if the defendant does not respond to a summons and complaint within the required time. The amended statute would provide that a default could be entered only after the time for response expired, **and** at least three days had elapsed since filing of the proof of service of the summons and complaint. While in some instances, such as where the defendant is served via post and mail, there is almost always enough time between service of the summons and filing of the proof of service of the summons such that the proposed three-day wait will not give the responding defendant any additional time before a default is taken. However, where a defendant is served personally, and thus has five days to respond to the summons and complaint, it could be difficult to get a proof of service back from the process server and filed in two days, and thus result in a situation where the defendant's default

would have to be taken after the time to respond to the complaint expires. The amendment would thus have the practical effect of providing tenants with additional time to respond to the complaint and avoid entry of default in certain circumstances.

This discussion is designed to provide you with a primer on relevant new laws and potential laws. As always, it is important to seek independent legal counsel as to your specific objectives and circumstances. If you have questions on these topics and/or need legal advice on these subjects, please call (805) 963-9721 or email David Grokenberger at [David@rogerssheffield.com](mailto:David@rogerssheffield.com); Michael Brejle at [Mike@rogerssheffield.com](mailto:Mike@rogerssheffield.com), or Scott Soulages at [Ssoulages@rogerssheffield.com](mailto:Ssoulages@rogerssheffield.com).



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# Santa Barbara Happenings

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## **“Opportunity Zones” Look to Benefit from the Tax Cuts and Jobs Act**

Low-income neighborhoods and business districts recently designated as “Opportunity Zones” are hoping private capital will flow their way as a result of receiving special tax breaks from the Tax Cuts and Jobs Act passed in December 2017. Communities with poverty rates of at least 20 percent or median incomes below statewide averages were considered for the list of Opportunity Zones, and more than 3,500 met the qualification criteria.

The U.S. Department of the Treasury and the Internal Revenue Service finalized the list of Opportunity Zones in May, which includes portions of Lompoc, Santa Maria, and Guadalupe. The communities are hoping investors will seriously consider developing in Opportunity Zones, in light of the enhanced returns they could see.

The tax breaks offer tiered incentives for longer-term investments at five, seven, and 10 years. This program differs from others in the past in that the government is not designating any specific programs or projects. This merely allows private investors to consider their market-based options for investment locations.

Additionally, individual residents are able to reap the tax benefits while investing in their own communities, because the tax breaks in Opportunity Zones are available to everybody.

## **Former County Supervisor Appointed EPA Region 9 Administrator**

Former Santa Barbara County Supervisor Mike Stoker was sworn in as Regional Administrator of the U.S. Environmental Protection Agency on May 18, 2018.

Stoker will lead the Agency’s Region 9 office, which is based in San Francisco, California. In his role, Stoker will be responsible for overseeing the environmental protection and public health efforts in Arizona, California, Hawaii, Nevada and the Pacific Islands.

As an attorney, Stoker specialized in agriculture, labor, land use and environmental law. While on

the Santa Barbara County Board of Supervisors, Stoker was part of an effort to overhaul the staff and budget of the Air Pollution Control District. After his time on the Board of Supervisors, Stoker served as director of government affairs for UnitedAg, the second largest agricultural association in California.

Stoker’s decades of experience in law and politics and lifelong concern for the environment make him uniquely qualified to take charge of his new position with the EPA.

## **Public Utility Companies Seek the Help of the Legislature to Get Out of Legal Jam**

In the wake of the Thomas Fire and then the Montecito Mudslide, dozens of lawsuits have been filed on behalf of hundreds of residents seeking recovery for damages allegedly caused by SoCal Edison and PG&E (“Defendants”).

Because the Defendants are public utility companies, the Plaintiffs in many of those actions have alleged causes of action for inverse condemnation (i.e. a claim that the government took land without paying for it). Under current California law, Code of Civil Procedure section 1036 allows the Plaintiffs – if they prevail – to receive their attorney’s fees and costs, which will likely be millions of dollars (not counting the actual and punitive damages that are also being sought).

In light of this potential exposure, the Defendants have taken to Sacramento to see if they can get relief in the form of a change to the law. No bill has been proposed yet, but it has been reported that there is significant interest from the legislature in drafting one. This interest has likely been caused by the Defendants’ threat to go bankrupt if no relief is given.

The effect that a bankruptcy would have on the State is unclear. However, what is clear is that the Defendants plan on using whatever means necessary to defend against the potentially gigantic judgments that they could be facing in the courts.

## **Governor Proposes Bill to Help Counties Affected by Natural Disasters**

*Continued on page 29*

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Governor Jerry Brown announced that the State of California will help offset the losses that were suffered by four counties, including Santa Barbara County, due to the recent natural disasters. This help is projected to provide around eleven million dollars to be divided between the counties.

Despite this welcomed aid, Santa Barbara County has reported that this aid will only offset a portion of the property tax revenue that will be lost. Santa Barbara County is already struggling with budget concerns and an ever-looming pension liability, and so it remains to be seen how and in what ways the County will make up for this additional revenue loss. The recent passing of Measure T, which approved taxing of the recreational marijuana industry, will likely help toward that effort.

Whether the County will take up any other measures in an effort to make up for the lost revenue from the Thomas Fire and Montecito Mudslide is currently unclear.

**Santa Barbara City Council Third District Election Results Make Additional Landlord-Tenant Reform a Serious Possibility**

On June 5, 2018, Oscar Gutierrez was elected to serve out the rest of former Third District Santa Barbara City Councilwoman, and now Mayor, Cathy Murillo's term in office. Gutierrez was backed by the Democratic Central Committee and heavily supported by Mayor Murillo. It was reported that Murillo contributed \$5,000 and went door-to-door in support of Gutierrez.

With the Santa Barbara City Council currently heavily divided, Gutierrez's election is expected to have large implications on the upcoming issues before the City Council. Due to the Mayor's and the Democratic Central Committee's heavy support of Gutierrez, he is very likely to have allegiance to both of them.

This is especially important to keep in mind as landlord-tenant reforms are on the City Council's radar. Due to the large effects that this City Council may have on future property rights in the City, it will be imperative that land owners and property rights advocates present a clear and united front in the upcoming months.

**Six Companies Vie for Three Marijuana Storefront Licenses**

The City of Santa Barbara has agreed to allow up to three recreational marijuana dispensary licenses. Currently six companies are competing for the opportunity to obtain one of these potential licenses allowing them to operate a recreational marijuana

storefront in the City. In June, representatives from each of the competing companies (CannDESCENT, Golden State Greens, Farmacy SB, Sunday Goods SB, Have a Heart, and Coastal Dispensary) delivered their pitches to City officials.

Recreational marijuana use and cultivation was decriminalized in California earlier this year after the passage of Proposition 64. Since that time potential cultivators from Santa Barbara County have received nearly 800 marijuana cultivation licenses, the largest number of any county in California.

With the amount of cultivation projected in Santa Barbara County and the City imposed restriction on competition, it is no surprise that there has been significant effort and resources put in by each of the six competing companies in hopes of obtaining one of the coveted recreational marijuana storefront licenses. The results of the companies' efforts will likely be announced in the upcoming months. Once the licenses are issued, the victorious companies will need to get building permits approved and certificates of occupancy issued before opening their doors to the public. However, after the amount of effort put into obtaining the license this process is unlikely to present a significant obstacle.

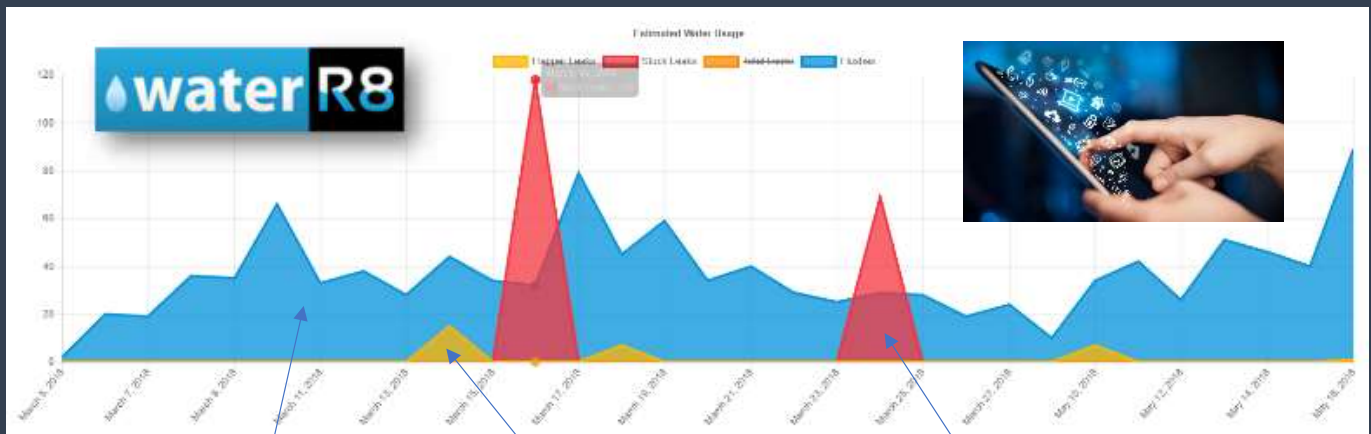


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