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Santa Barbara's North County page 17



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CALENDAR

Monday-Tuesday, July 30-31st

SBRPA Office Closed for our move to our new home at 123 W. Padre St.



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 will feature a 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



Photo andersenssantabarbara.com

Thursday, September 6th 8:00 a.m.

FIRST THURSDAY SERIES: Coffee with Counsel

Andersen's Bakery & Restaurant, State Street, Santa Barbara

Our September meeting will be held on September 6th at Andersen's Bakery & Restaurant.

As always, RSVPs preferred to ensure adequate seating, but feel free to just drop in. RSVP to Angela at: (805) 687-7007 or programs@sbrpa.org

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.



Monday, September 3rd

SBRPA Office Closed in honor of

LABOR DAY

SBRPA closed on Friday's through the summer

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2018 SEPTEMBER						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6 SBRPA 1st Thursday	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						



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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 September 6th 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.

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SBRPA President's Message & CaIRHA/NAA Update

James Carrillo • CPM®, SBRPA President



In July, we were once again reminded of the fragile balance between living in a natural wonderland, as we do, and the fury that can be unleashed by a combination of natural forces such as fire, wind and heat. The Holiday Fire, which struck the area of North Fairview Avenue in Goleta, burned 100 acres and destroyed 13 homes in a very short period of time. Once again, the bravery and resiliency of our first responders kept what could have been a much larger disaster, in check. Remarkably, no lives were lost, no major injuries were reported and all animals were safely relocated to other shelters in and around the city. Our hearts go out to the victims of this terrible tragedy and all of those affected by the fire.

For the last year and a half, members of the Santa Barbara Rental Property Association, in conjunction with the California Rental Housing Association, have been closely following legislative and ballot initiative efforts to repeal Costa-Hawkins. This bill, enacted in 1995, offers protections to owners of property from the types of rent control restrictions that can be put in place. For example, under Costa-Hawkins, single family homes cannot be rent controlled. Another example would be rental units built after 1995. Those units may not have rent control imposed on them. When it was enacted, Costa-Hawkins was seen as a fair compromise to protect renters and continue to offer developers incentives to build more housing. How times have changed! Today's political climate is fraught with threats against landowners from many different rental housing coalition advocates.

While we were successful in dealing with the legislative efforts to repeal Costa-Hawkins, the threat of a November ballot initiative to repeal this law is now a reality. This will be on the November ballot. It is imperative that we join together as an association and do all we can to challenge this ill-thought initiative. While the repeal of Costa-Hawkins itself will not impose rent control, it will open the door for municipalities to determine what if any types of controls they would like to put in place. This means that the City of Santa Barbara may choose one route, while the City of Goleta chooses another, and the County of Santa Barbara goes another route. Depending on where your units are, you could be adversely affected. This is not a complicated measure. A vote to repeal Costa-Hawkins will lower property values, reduce the amount of new housing built, and benefit only a few renters

who need no income qualifiers to enjoy low rents at the expense of all other renters still looking for much-needed housing. The repeal of Costa-Hawkins does nothing to increase the amount of housing available. This initiative is titled *The Affordable Housing Act*. Nothing could be further from the truth. Californians cannot afford *The Affordable Housing Act*. For more information on how you can join the fight to defeat this initiative, please contact SBRPA Executive Director Laura Bode at laura@sbrpa.org or Office Assistant Angela Gonzales at angela@sbrpa.org.

Finally, we are gearing up for our annual golf tournament on October 26, 2018, at Glen Annie Golf Club. Sponsorship and registration materials have been sent out, and we are asking for your help in finding sponsors, donating raffle gifts, or even better—just coming out with your fellow members and suppliers for an enjoyable afternoon of golf, networking and fun. Mark down the 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. Don't miss out on this fabulous annual event. Sign up now!

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

Sandra Catelino, Danny Hemingway
Marilyn Kandus, Nellie Munoz
Stefanie Shuman, Joe Stubbins

ARE YOU AN SBRPA MEMBER WITH QUESTIONS?

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Governor Brown Extends Rent Limitations

Rent increases remain limited to 10 percent through December 4, 2018

Governor Jerry Brown has again extended the states of emergency in areas of both Northern and Southern California affected by last fall's wildfires. See link: <https://caanet.org/gov-extends-bans-on-rent-gouging>

State of Emergency Price Gouging Extended Through December 4, 2018

District Attorney Joyce E. Dudley announced that Governor Brown has extended the emergency period applicable to the crime of price gouging to December 4, 2018. See link: <https://www.edhat.com/news/state-emergency-of-price-gouging-extended>

"Price gouging is subject to criminal prosecution [through the District Attorney's Office] and carries a penalty of up to one year in county jail and a fine of up to \$10,000. Violators may also face civil enforcement actions and penalties."

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Central Coast News

Steven Battaglia • Broker, Battaglia Commercial Real Estate



Federal H-2A Farm Worker Visa Program in Santa Maria

The City of Santa Maria is holding a series of community meetings to allow public discussion and input on a potential city ordinance regulating the housing of H-2A farm workers within the city. Back in March of this year, the City of Santa Maria enacted an urgency ordinance which limited the number of H-2A occupants to 6 workers for any property with an R1 or R2 zoning. This was in response to complaints by neighbors and residents about living next to homes with H-2A workers. The city stated that it implemented the urgency ordinance as a means to alleviate overcrowding and "preserve the quality and character of residential neighborhoods." The city then decided not to extend the urgency notice in late April in favor of holding these community meetings in hopes of developing a more comprehensive ordinance.

H-2A visas are issued to farm workers who come up from Mexico (or elsewhere) to work on farms on a seasonal basis. Employers must apply for the visas and provide the workers with transportation and housing. The workers typically come up for 4 to 8 months at a time to plant, maintain, and harvest crops on US farms.

There are strict federal and state guidelines that regulate the housing of H-2A workers. Most notably, the regulations require sleeping rooms to have a minimum of 50 square feet per worker. This translates into two workers for an average 10' x 10' bedroom. Employers are also required to provide transportation between the housing complex and the farms, and they either need to provide the H-2A workers with access to kitchens or, in the case of many motels, prepare meals for them.

Local farmers have been converting older apartment, motels, hotels, and even single family homes to H-2A housing.

Changes in immigration policy over the past 6 years have decreased the availability of resident farm workers living on the Central Coast and have pushed farmers to depend more heavily on H-2A workers. Back in 2012, California employers hosted only about 3,000 H-2A workers; but by 2015 that number increased to over 8,500; and now latest statistics for 2017 show that California hosted over 14,250 H-2A workers, which is a 475% increase over that 5 year period. This trend is expected to continue as farmers see the H-2A visa program as their most reliable and stable source of workers.

While the H-2A visa program appears to be saving Central Coast farmers from their labor shortage, housing these workers can be problematic and contentious.

In 2014, a local company had contracted to purchase La Plaza Apartments in Guadalupe to use the 74 unit apartment complex as H-2A housing. Shortly after the deal was made, the City of Guadalupe's City Council passed an ordinance placing regulations on boarding houses. The new regulations prompted the buyer to cancel the transaction. Consequently, the seller filed a lawsuit against the City of Guadalupe alleging that the boarding house ordinance "was enacted for a targeted, singular purpose - to thwart the sale of La Plaza Apartments and prevent its use for boarding houses, including H-2A housing."

Another, more frightening incident happened in Nipomo in 2016. A local strawberry farmer bought several lots on a cul-de-sac and was in the process of building homes that were intended to house H-2A workers. Local residents were upset at having these boarding houses go up next to their family homes and worried about potential crime and the safety of their families. Just before midnight on April 7, 2016, a suspicious fire broke out in one of the unfinished homes. It was later determined that fire was set by an arsonist. The farmer ended up abandoning the project and providing housing for his workers elsewhere.

On a more positive note, Bonipak, a local agricultural employer that employs between 170 to 500 workers annually depending on the time of the growing season, is in the process of developing a farm worker housing complex on the outskirts of Santa Maria. Its project has been approved by the County of Santa Barbara for 30 bunkhouses that will house 20 workers each. In addition to the bunkhouses, this project includes a mess hall, laundry facility, and recreational area for the workers. It will likely be a model for other H-2A projects on Ag land within the county. Despite obtaining approval from the County of Santa Barbara, this project has been on hold for the past year while the developer works with the US Fish and Wildlife Department to address mitigation measures to the Tiger Salamander habitat.

On July 12, 2018, the City of Santa Maria held its second of five community workshops. Assistant City Attorney Philip Sinco, land use consultant Laurie

Continued on page 13



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Tamura and City Planning Manager Ryan Hostetter discussed the housing requirements and challenges with the H-2A program. Tamura said that medium to large farm worker developments, similar to the Bonipak project, were very challenging due to the required infrastructure, namely water, sewer, and roads. While many of the services are available within the city, extending them beyond the city limits is both politically challenging and cost prohibitive in most cases. Tamura went on to say that the challenges of building outside the city make it a more feasible to develop H-2A housing within the city, thus putting more pressure on city officials to develop a comprehensive policy on H-2A.

Toward the end of meeting, the panel took questions from the audience, and the discussion shifted away from *housing* for H2A workers and onto the *need* for H-2A workers. Some field workers, through a translator, and members of CAUSE questioned why farmers were turning to foreign workers instead of using domestic workers. George Adam, owner of Innovative Produce, responded to the question, saying that the domestic worker population was aging and dwindling. This has made domestic farm labor scarce and unreliable. He went on to say, "We can't run a business with people that are leaving us constantly. I got an example: I had 10 domestic workers working with me in strawberries, and they all left 'cause they got paid more when other work became available. So basically everyone is jumping

all over the place to make the most money—we can't run a business that way!" A representative of Main Street Produce affirmed this as the reason why it was bringing in H-2A workers, too.

Some in attendance questioned how long farmers would need the H-2A program. City Planning Manager Hostetter pointed out that the H-2A program was not new and has been around since the 1980s. George Adams of Innovative Produce added that he felt that "the future of ag in Santa Maria is going to be with H-2A, as I see it."

We will have to wait until this fall to see what the city ultimately decides to do with H-2A housing. Until then, the next community meeting is planned for August, though the time and place has not yet been announced.



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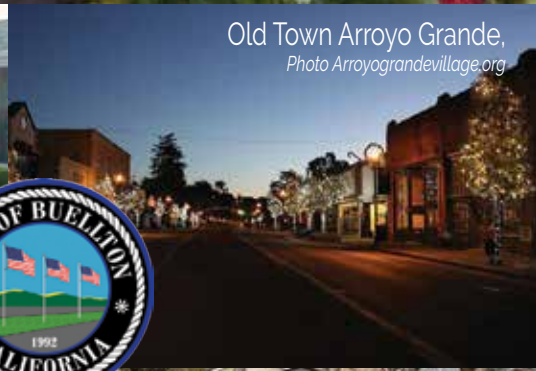


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City of Santa Maria



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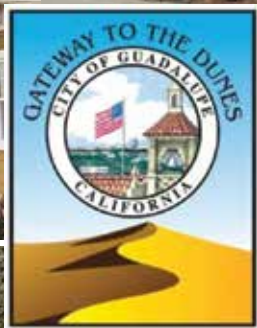
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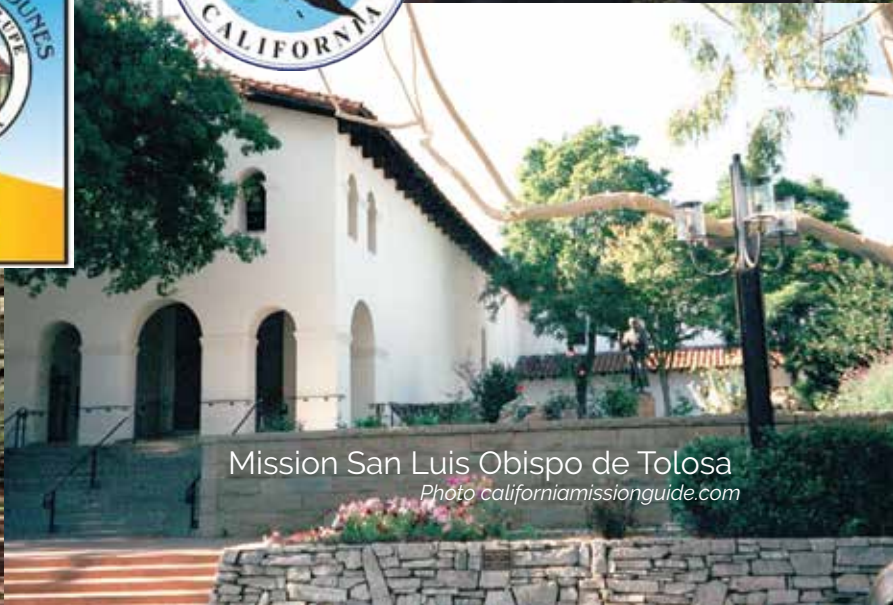
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The northern part of Santa Barbara County is known for lush vineyards, rolling hills, beautiful farms, vibrant towns and cities, and friendly people. Cities and towns in North County include Santa Maria, Lompoc, Vandenberg Village (near Vandenberg Air Force Base), Guadalupe, Solvang, Buellton, Los Alamos, Los Olivos, Ballard, and Santa Ynez

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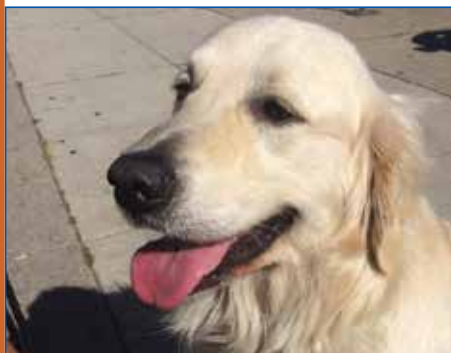


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Santa Barbara County is a paradise along the California Central Coast in which we are fortunate to live and work. While the focus of the County is its main city of Santa Barbara, the North County has its own cities, culture, and natural beauty distinct from Santa Barbara, Goleta, and Carpinteria with much to offer, including more affordable housing. As housing providers and purveyors, we are all familiar with this pricing difference that entices many to live in the North County even though they work in the South County—a phenomenon that has created the daily traffic flow into and out of Santa Barbara from the north and back every morning and afternoon.

Visitors to our area can also find much beauty and interest in the North, and we celebrate the North with its many attractions and activities and thank all of the members who call the North County their home!



Chumash Casino, Solvang



Vandenberg AFB



Alan Hancock College, Santa Maria



North County Strawberry Fields & Vineyards

*THANK YOU,
NICK GONZALES!*

We would like to say a hearty thank you and best wishes to Nick Gonzales—one of the finest board members ever to serve with SBRPA.



Due to demanding professional and personal commitments, Nick is leaving as a board member after 4 valuable years of collaboration, information sharing, and political activism and education. As the owner of High Tech Lending in Lompoc, Nick knows the Lompoc and Santa Maria housing and rental markets first hand and has helped countless families achieve their dream of home ownership. Nick has his finger on the pulse of political and governmental goings on as well and has been a great source of information and a great direct contact with some of the political and governmental players up north. Along with North County board member Steve Battaglia, Nick was a key player in organizing and executing the Town Hall meetings for North and South County members to educate and raise awareness of critical political activities affecting rental property owners. He joined the contingency of board members on Leg Day in Sacramento in both 2016 and 2017, helping to inform and connect with our elected officials in the state's capital as they were poised to vote on key issues affecting our industry. We will miss Nick's warm smile, calm and gentle demeanor, willingness to help out, steady work ethic, political savvy and extensive knowledge of goings on in the North. We wish him all the best!



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Meet a Member

Ellen Welby



Kathy Clenet

Last year I had the opportunity to attend a lecture at Santa Barbara City College given by Jack Canfield, motivational speaker and author of the *Chicken Soup for the Soul* books. I love hearing about people who have a clear calling in life and are lucky or determined enough to pursue their passions. That's how it felt talking to Kathy Clenet.



As a teenager Kathy would visit open houses "just for the fun of it." So, in the 1980s, when Kathy wanted to start making investments, her faith was in real estate. She and her husband Alain own a mixture of commercial, multiple unit and single-family dwellings in Santa Barbara, Santa Ynez, and Orcutt, and they manage the properties themselves. When I asked how many properties they manage, Kathy responded that they have 25 tenants. What Kathy likes most about being in rental property management is the relationship with her tenants, most of the time. We'll get to that caveat later.

Kathy's motto is that she won't rent anything that she herself wouldn't want to live in. "I want to provide a lovely environment for my tenants." To that end Kathy and Alain are always upgrading their properties. They have built an extensive network of suppliers or "crew" as Kathy calls them. "You have to treat them right for them to treat you right." With those solid relationships Kathy can count on her crew to get the job done to her high standards. And count on them she does. When I spoke to Kathy, she and Alain were preparing to leave on a trip to Europe and Uganda. "We like to travel but still have to manage our properties when we're gone." Kathy has to keep up on the emails and phone calls, but fortunately she can rely on their crew to get the work done.

So what is Kathy's pet peeve? "Landlords who don't take care of their tenants and properties. Because of their actions, the rest of us are going to be forced to accept rent control. I like to keep my rents below market value, but rent control is coming, and it

is going to restrict a landlord's flexibility."

With properties in Santa Barbara and the north county, Kathy has some good insights into the differences between the markets. "You have more families in the north county, with more people living in each unit but lower rents. It is harder to get a higher security deposit in the north county. In Santa Barbara you have a lot more professionals."

Let's get back to that one caveat to great tenant relationships. "I had to evict a family." Kathy says. "They were four months behind in rent, and I had to evict them. They had a guarantor when they signed the lease, and when I went to her for the rent, she just laughed." When stuff like that happens, Kathy recommends having a good real estate attorney and letting him or her handle it. That way all the i's are dotted and t's are crossed. Everything needs to be covered correctly.

So, what is Kathy's advice for anyone entering into rental property management? "Be professional and stay educated." Take full advantage of everything the Santa Barbara Rental Property Association has to offer. Laura Bode and Angela Gonzales have taken the organization to new heights, and I feel more professional because of what I have learned from them. If all landlords were more active in the organization, we would have more educated landlords and fewer problems in the community and fewer laws regulating the community. Don't think of this as just a business, but as a way to make people's lives better."

I couldn't agree more.

Heather Church-Stricklin



Finding time to catch up with Heather Church-Stricklin is no easy feat. Heather is a Regional Property Manager for LeFever Mattson Property Management, responsible for over 1400 units throughout the Central Valley and Southern California territory, including Fresno, Modesto, Lompoc, and Riverside. And

Continued on page 21

Two Tours for Members to Enjoy

Traveling Around The World Together, Come Along!



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.” We will explore the highlights of this ancient continent, but also go off-the-beaten-path into the remote eastern regions of the country. This tour features land exploration as well as a beautiful week-long river cruise on the fascinating Brahmaputra River in the shadow of the Himalayas. Stand at sunrise at the amazing Taj Mahal, explore the famous pink city of Jaipur. Experience an Indian tea plantation and even experience a Safari by elephant back in the legendary Kaziranga National Park (UNESCO). Enjoy stunning hotels in all of our multi-night stays across this exotic and fascinating country, and be enchanted by the warmth of the people and the vivid history of an ancient land. Like icing on an already tasty cake, we have even included a fantastic four night stop-over in Dubai on the way to India including touring in this spectacular city. At over three weeks, our **Legendary India tour is amazing value you don't want to miss. Feb 13-Mar 11, 2019 – Tour Fare \$7,999 pp, Single Fares Available. 27-Nights**

At the end of April, Stewart Tours and Rental Property Owners are off to the ancient land of Greece. Stand in the shadow of the Acropolis, step into the ring where Olympians first competed, or contemplate the oracle's insights surrounded by the grandeur of Delphi. Admire the Greek Isles' sun-bleached ruins under piercing blue skies as the Aegean laps at an endless coastline. The Greek culture is filled with passionate music, delectable cuisine and a fascinating history rich with stories and legend. We'll start the tour with a fascinating 4-night stay in ancient Athens featuring historical touring and even a day trip to Delphi and a food tour in the city. After uncovering Athens, we board one of the most award-winning ships in cruising today, the Crystal Serenity. With only 900 guests onboard, this is the perfect 5-star ship to spend a week exploring the stunning Greek Islands. Mykonos, Santorini, Rhodes, Paphos (Cyprus) and Chania (Crete), we visit them all, and your experience with Stewart Tours includes all touring in every port of call. A wonderful land stay and then a cruise aboard Crystal Serenity, the perfect Greek Isles tour! **April 22-May 4, 2019. \$6,799pp.** www.StewartTours.com or **1.866.944.3036**. Talk to your tax advisor about the possible tax benefits of Association Travel.



Heather has had a very busy week. But for Heather, a busy week is par for the course.

As a teen, Heather spent summers working in her mother’s business where she learned the inner workings of an office there and can type 100 words per minute.” Heather’s property management career started 27 years ago at age 17, when she was recruited by her landlord to be a leasing consultant, then assistant manager for the 25-unit community where she lived. And since then she has worked her way up the ladder and has “worn every hat on the administrative side of the business.” But it sounds like Heather has climbed many ladders on the maintenance side of the business too, literally. “I’m pretty good at maintenance,” says Heather. One of her favorite days at work is a Blitz Day, where the office and maintenance staff cross train to get a better understanding of everyone’s responsibilities.

During our conversation it is clear to me that Heather loves every aspect of property management. She likes the diversity of the work, the analytical side, like doing financial reports, but for Heather the best part is the people. “We are like therapists—listening to residents with open ears.”

I ask Heather if there are any differences in managing the 328-unit Windscape Village in Lompoc from the other properties she and her 5 community directors manage. “The tasks are the same everywhere,” she says. “But the atmosphere is more relaxed and a little quieter, and the demographics are more diverse.” With a mixture of military personnel, retirees, Chumash Casino employees, and SpaceX employees, Heather enjoys the diversity of the residents at Windscape Village. And the best part? They pay on time!

Our discussion veers towards her worst day on the job. She laughs and says, “Oh, there are too many to count.” In a more somber tone she says, “The hardest days are when a resident dies. We recently lost a resident who cared for her disabled grandchild. The child was left with no other family, and we worked with social services to get the child placed in a home.” Heather and her staff also work with residents who are victims of domestic violence. “I saw a resident punch his spouse in the face. That was terrible. Domestic violence is not gender specific. We do what we can to support restraining orders, but most importantly we show empathy and compassion to our residents going through difficult times.” Outside of work Heather volunteers with a women’s advocacy group.

Rent control seems to be a hot topic for everyone in property management these days, and Heather is no exception. “I don’t believe that we need

universal rent control,” Heather says, “but we do need more affordable housing. There needs to be more programs like tax credits for low income housing, and programs like section 8 need to be easier to administer.” Heather also mentions how important it is that property managers know and follow Fair Housing laws and accommodate persons with disabilities. But equally important to Heather is greeting all residents with a smile and an open ear. Heather’s pet peeve is pets and the laws around service animals. Although a pet lover herself, Heather thinks that particular law has too many loop holes and residents are happy to take advantage of them but don’t take responsibility for their animals.

With 27 years in rental property management, Heather has some sage words of advice for anyone wanting to enter the industry. “You need enthusiasm, strong communication and organizational skills, and exceptional customer service. But most importantly, you need the ability to work in a team environment. As the acronym TEAM says, ‘Together Everyone Accomplishes More.’”

Ellen Welby is the sister of board member Joyce Hulsebos. She moved back to Santa Barbara 4 years ago when she retired from a career in international sales and marketing for Jelly Belly Candy Company. Before that she worked for the US Department of Agriculture, where she authored books and helped US companies learn how to export. She is now taking care of her disabled father and dabbling in rental property management.

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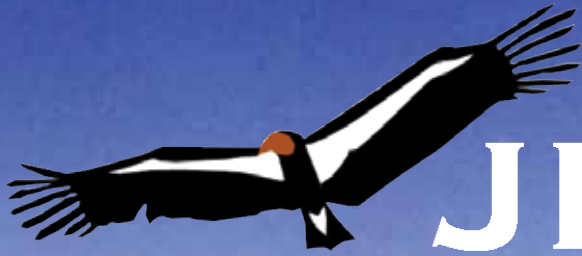
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The Attorney's Corner

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The Lodger and the Tenant

With the high demand for housing rentals and low supply in Santa Barbara, many homeowners have opted to rent out individual rooms in their primary residence. The renters of these rooms are generally considered "lodgers" in the eye of the law, with a different set of rights and responsibilities than those of an ordinary tenant. The key distinctions reflect the legislature's understanding that where a homeowner rents a portion of his home to a stranger, the relationship is different than where the renter is at a different location with exclusive possession of a dwelling unit. It is important for the savvy landlord to understand the nature of the legal relationship between lodger and landlord and how it varies from that of landlord and tenant, especially with regard to the ability to remove the occupant.

WHAT IS A LODGER?

Simply put, a lodger is a single individual renting a room from an owner in an owner-occupied dwelling. A common example might be where a homeowner rents out an adult child's former bedroom to a foreign exchange student for a school semester. The California Civil Code establishes a specific definition of "lodger" for purposes of requiring notice before terminating the occupation. Section 1946.5(c) of the Civil Code provides that a lodger is "a person contracting with the owner of a dwelling unit for a room or room and board within the dwelling unit personally occupied by the owner, where the owner retains a right of access to all areas of the dwelling unit occupied by the lodger and has overall control of the dwelling unit." Civil Code Section 1946.5 (d) goes on to say that "this section applies only to owner-occupied dwellings where a single lodger resides. Nothing in this section shall be construed to determine or affect in any way the rights of persons residing as lodgers in an owner-occupied dwelling where more than one lodger resides." (Emphasis added).

There are some situations, such as occupancy in an apartment hotel, in which it is unclear whether the occupant is a tenant or a lodger. In an ambiguous case, the court will examine all of the factors

and base its decision on the dominant characteristics of the particular situation. The retention of keys by management and management's regular access to the premises for caretaking purposes are factors that are characteristic of a proprietor/lodger relationship. Management's performance of services such as furnishing/laundrying linen, maid service, cleaning of carpets and windows, attending to removal of garbage, and furnishing of light/water/heat/telephone service also indicates this relationship. On the other hand, factors such as the absence of common kitchens, dining rooms, and bathrooms, presence of kitchens and bathrooms in each unit, distinctness of each room or suite as a unit, and rental rate that does not vary with the number of occupants are more indicative of a landlord-tenant relationship.

A long-term guest in a motel or similar facility who receives the room for a lower rate in return for fewer services may be considered a tenant rather than a lodger. However, long-term residents in a hotel or boarding house who receive regular hotel services are lodgers and therefore licensees rather than tenants with regard to the rooms. Even if a person resides in the hotel for more than 10 years, that person will not achieve an interest in the property as a tenant.

SIMILARITIES AND DIFFERENCES BETWEEN RIGHTS OF LODGERS AND TENANTS

Lodgers fall somewhere between a guest at a hotel and a long-term tenant with the exclusive right to possess a dwelling unit. A hotel keeper maintains possession and the right of access over dwelling units in his hotel and is generally subject to an occupancy tax. On the other hand, a landlord renting out a dwelling unit to a tenant provides the tenant with exclusive use and possession of the unit, and the tenant is vested with certain rights. The law considers lodgers to be more like tenants than transient hotel or residence club occupants, and thus statutory provisions applicable to a residential landlord/tenant relationship extend to tenants and most lodgers. These include the interplay of responsibil-

Continued on page 27

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SANTA BARBARA	3 UNITS	\$830,000 (BUYER)
ISLA VISTA	2 UNITS (17-BR)	\$2,700,000 (SELLER)
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ities regarding providing habitable dwelling units, repairs thereto, and providing notice before terminating the relationship for certain lodgers.

The chief distinction between a tenant and a lodger lies in the character of possession. While a tenant has exclusive legal possession of the premises and is responsible for their care and condition, a lodger has only the right to use the premises subject to the proprietor's retention of control and of the right of access to them. The other distinctions come in the context of terminating the relationship between the occupant and the landlord.

TERMINATION OF LODGERS COMPARED TO TENANTS

To regain possession of premises leased to a tenant, a landlord must provide statutory notice to terminate the tenancy and then, if necessary, obtain possession through an unlawful detainer action. On the other hand, with the exception of a single lodger residing in an owner-occupied dwelling (which is defined above because you will likely be dealing with this variety of lodger), a lodger who defaults on payments due or otherwise breaches his or her personal contract with the proprietor has the status of a mere trespasser and can be evicted without prior notice. However, as stated, most lodgers you would interact with will fall within the definition of Civil Code 1946.5(c) and thus be entitled to written notice of the intention to terminate, at least as long before the expiration of the term of the hiring as specified in Section 1946. The notice must be given in a manner prescribed in section 1162 of the Code of Civil Procedure or by certified or registered mail, restricted delivery, to the other party, with a return receipt requested. Once the notice expires, the lodger must leave the premises, and if he does not do so, he is committing an infraction and is subject to arrest by law enforcement or the landlord himself. Alternatively, landlords unable to regain possession through non-judicial means may proceed with an unlawful detainer action and obtain an immediate writ of possession.

SUMMARY

If you, as the owner, personally occupy the residence, and you have contracted with no more than one individual to occupy the same dwelling unit, and if you have retained the right of access to all areas of the dwelling unit occupied by that individual, that individual will be deemed to be a "lodger" under the definition contained in Civil Code section 1946.5. In this situation, you will then be able to terminate the hiring of the lodger, provided that written Notice of Termination of Hiring is served

at least as long before expiration of the term as the term of the hiring (e.g., one week for a week-to-week "hiring" or rental). If the lodger does not vacate at the expiration of the term specified in the notice, then the lodger may be arrested and removed from the premises by a peace officer pursuant to Penal Code section 602.3.


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) 965-7746 or email David Grokenberger at David@rogerssheffield.com; Michael Brejle at Mike@rogerssheffield.com, or Scott Soulages at ssoulages@rogerssheffield.com.



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New FEMA Flood Map Adopted by County Board of Supervisors

The much-anticipated interim Federal Emergency Management Agency (FEMA) flood map was released in mid-June 2018. The map was created in order to assist the rebuilding effort in the areas affected by the Thomas Fire and the January debris flow in Montecito and Carpinteria (Debris Flow). The Santa Barbara County Board of Supervisors voted unanimously to approve the interim FEMA map for use in helping to determine where, how, and if houses affected by the Montecito Debris Flow can be rebuilt.

The approval was welcome news to many who are wanting to put the pieces back together, and they see this as one step closer to that goal. However, some residents opposed the approval due to alleged inaccuracies listed on the map, attributing some of the inaccuracies to old data that was gathered before excavation or soil replacement.

The interim FEMA map indicates the new flooding elevations that were created due to the flooding from the Debris Flow and will be used, along with other maps, to determine whether new buildings can be constructed and how high they must be. The interim FEMA map will not be used to determine evacuation zones.

Additionally, the County has specifically warned that the FEMA map is for determining potential flood areas and not potential debris flow areas. The County will likely continue to make this distinction clear as scrutiny continues over the communication and warnings that occurred prior to the Debris Flow events.

In any case, the release and approval of the interim FEMA map means a step forward in the rebuilding process that will be going on for several years to come.

\$21.3 Million to Housing Authority for Affordable Housing Projects

The Housing Authority of the City of Santa Barbara has received \$21.3 million in federal Low-Income Housing Tax Credits (LIHTC) to develop two of its affordable housing projects.

The Gardens on Hope (251 S. Hope Avenue) will

consist of 88 studio apartments for low-income seniors, and Johnson Court (813 W. Carrillo Street) will provide 17 studio units for homeless and very low-income veterans.

In order to apply for the highly sought-after LIHTC, developers agree to reserve a portion or all of their housing units for low-income households for a number of years (California's affordability period is 55 years). Developers then sell their tax credits to investors to obtain equity financing for their developments. This allows investors to claim tax credits on their federal income tax returns.

Both The Gardens on Hope and Johnson Court are scheduled to break ground later this year.

Two Santa Barbara Redistricting Proposals on November Ballot

Two competing redistricting proposals will be on the ballot in November, each requiring an independent commission to draw new supervisorial district boundary lines in 2020. The Santa Barbara County Board of Supervisors unanimously voted to move forward with both proposals, one from a group called Reason in Government and another prepared by Supervisor Das Williams' staff. The redistricting process is required after every ten-year census, and the next is due after the 2020 census.

Reason in Government's three-page proposed ordinance was developed over a year and a half with the help of lawyers and public polls. It involves a committee of only five members, plus five alternates, and seeks to exclude from serving on the committee anyone who has served as an officer, employee, paid consultant or an elected or appointed member of a political party. More than 16,550 signatures were gathered on a petition to place it in a measure before voters.

Developed in response to Reason in Government's proposal, Williams' proposed ordinance calls for a commission of eleven members, with at least two members coming from each supervisorial district. It also outlines qualifications for citizens to serve (barring public employees and union members from serving), a procedure for removing members, and more guidelines for drawing the supervisorial districts.

Continued on page 25

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If neither proposal passes, it will revert back to the current system where the elected Supervisors themselves decide the redistricting. All of the Supervisors agreed that an independent redistricting committee to oversee the drawing of the five county supervisorial districts would be better than the current system.

Perhaps Joe Armendariz of the Santa Barbara County Taxpayers Association put it best when he said, "Voters should be electing their representatives. Representatives shouldn't be electing their voters."

If both proposals pass, the one with the highest vote percentage will prevail.

City of Santa Barbara Planning Commission Unanimously Approves Project Amendment Changing Four AUD Units to Short-Term Rentals

The City of Santa Barbara's Planning Commission voted 6-0 to approve a change to a project proposal, now allowing four vacation rentals to replace four units approved under the City's Average Unit Density (AUD) Program. The initial project proposal, located at 401-409 E. Haley Street, included 28 rental apartments under the AUD Program and some commercial retail space.

The major change approved will allow four of the apartments to be converted into short-term vacation rentals. The project will now go back to the Architectural Review Board for approval.

Despite the unanimous vote, several members of the Planning Commission discouraged the change to short-term rentals. However, the Commissioners saw themselves without a choice because the City's General Plan currently allows for short-term vacation rentals in areas zoned for commercial use. Essentially, if the area is zoned for a use that would allow a hotel, then short-term rentals can be built.

With the numerous projects that have been rejected over the past couple of years, this project shows – at least thus far – that new development of apartments mixed with short-term rentals is still a possibility in Santa Barbara.

Santa Barbara Ordinance Committee Votes on Styrofoam, Straws

The City of Santa Barbara Ordinance Committee recently considered limiting or banning the use of expanded polystyrene (EPS), commonly referred to as "Styrofoam"; they also considered banning straws and limiting the availability of single-use plastic stir sticks and utensils by making them available "on demand" only.

The Ordinance Committee, a subcommittee made up of Santa Barbara City Council members Kristen Sneddon, Randy Rowse, and Mayor Cathy Murillo, unanimously decided to prohibit the sale and use of EPS products in a proposed ordinance. Santa Barbara is joining 116 other cities and counties across the state that have already initiated similar regulations banning the use and retail sale of EPS food and drink containers.

The Ordinance Committee remained divided 2-1 on the proposal to ban straws and make single-use plastic utensils available "on demand" only, but the majority voted in favor of the restrictions.

Under the City's proposed ordinance, local businesses can apply for an "economic hardship" exemption; smoothie company Blenders in the Grass has already asked for an exemption. The exception would allow extra time for businesses to purchase suitable replacements for the EPS products they are currently using.

Before a full City Council vote on the issue, Ordinance Committee members plan to modify the ordinance to include an educational element regarding the negative impact of non-biodegradable materials on our environment and an aggressive citywide anti-littering campaign.



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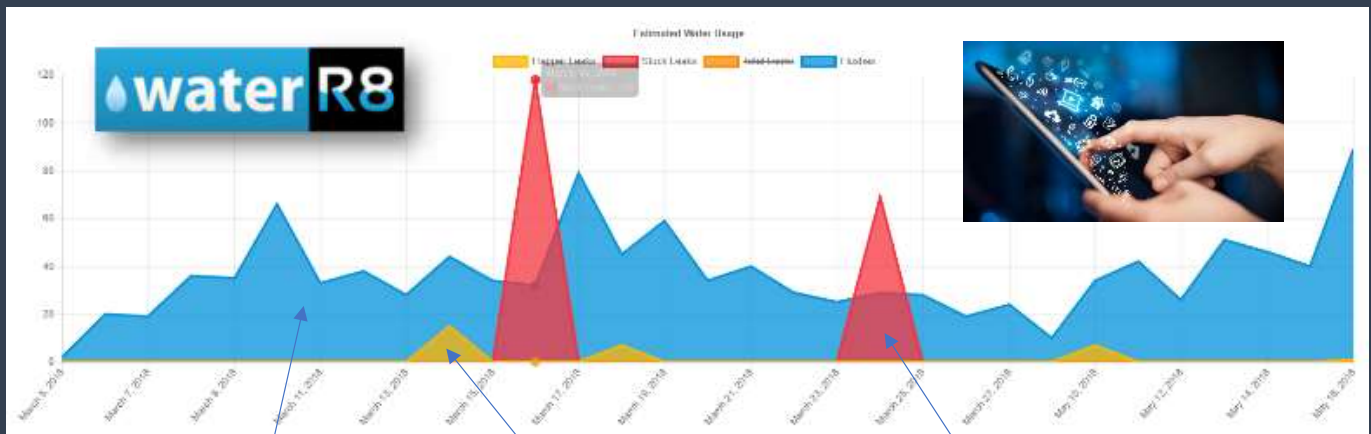


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