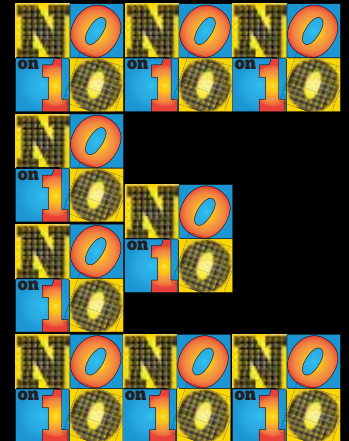
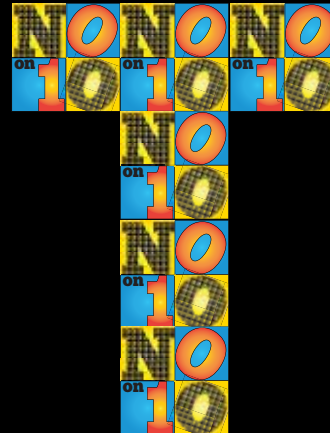
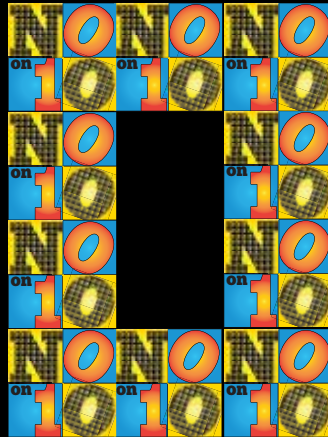


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***The biggest threat to your rental property investment is . . . . NOW! . . . . . page 20***



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# SANTA BARBARA RENTAL PROPERTY news



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# October 2018

Calendar .....	5
President's Message & CalRHA/NAA Update .....	7
Board of Directors Update.....	11
No on 10 .....	13
Rent Control Talking Points .....	14
Golf Sponsor Thank You .....	15
Sacramento Report.....	19
The Biggest Threat .....	20
Attorney's Corner .....	27
Santa Barbara Happenings.....	33
Directory of Advertisers.....	38

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# CALENDAR

**Thursday, Oct. 4<sup>th</sup> & Thursday Nov. 1<sup>st</sup> 8:00 a.m.**

**FIRST THURSDAY SERIES: Coffee with Counsel**

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

Our September and October meetings will be held at Andersen's Bakery & Restaurant, 1106 State Street, Santa Barbara. \$20 includes coffee, juice, pastries, quiche & fruit.

RSVP to Angela at: (805) 687-7007 or [programs@sbrpa.org](mailto:programs@sbrpa.org)



*Photo santabarbara.com*

*Payment required to reserve spot. (Sorry, non-refundable a week in advance as SBRPA needs to pay our host!!)*

**Saturday, Oct. 13<sup>th</sup>, 10:00 a.m. to 2:00 p.m.**

**HOUSING SANTA BARBARA DAY**

*De la Guerra Plaza, Santa Barbara*

Come for information on: Home purchase programs, Workforce housing, Tennant/landlord resources and more. Enjoy activities, entertainment, and local food vendors.

Please come visit SBRPA's Booth at the event! We will be giving a raffle prize to one lucky SBRPA member who visits us (...and it is a nice prize!)



*Photo santabarbaraindependent.com*

For more information on Housing Santa Barbara Day: [jmorales@hacsb.org](mailto:jmorales@hacsb.org) or 805-897-1049

**Friday, October 26<sup>th</sup>**

**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 26<sup>th</sup>.

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.



**Thursday, Dec. 6<sup>th</sup>, 5:00 P.M. TO 6:30 p.m.**

**SBRPA HOLIDAY PARTY**

*Santa Barbara Yacht Club, Santa Barbara*

Save the date for our annual Holiday Party & 2019 Board of Directors Nominations.




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October 13 10 am - 2 pm

De La Guerra Plaza

# HOUSING SANTA BARBARA DAY

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Come share your ideas about affordable housing with elected officials!

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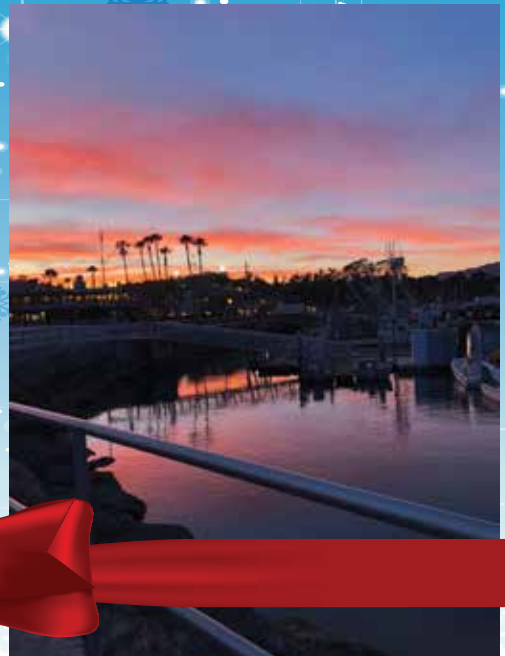
## SAVE THE DATE!

Thursday, December 6, 2018

**5:00-6:30 p.m.**

***Please mark your calendars and save the date for SBRPA's Annual Holiday Party and Nomination of its 2019 Board of Directors***

*SBRPA members are invited to drive up to the front of the yacht club to drop off participants. NOTE: No parking will be available in the Yacht Club lot. Please park in the public lot at the harbor.*



Santa Barbara Yacht Club  
130 Harbor Way • Santa Barbara, CA



# SBRPA President's Message & CaIRHA/NAA Update



James Carrillo • CPM®, SBRPA President

2018 has certainly been the year of legislative and "initiative driven" challenges. For those of you who were able to attend last month's Town Hall on September 25<sup>th</sup> at Earl's Place, you know the severity of the situation we are facing with the impending electoral vote on whether or not to overturn Costa-Hawkins. You know how important it is between now and Election Day to do all you can to bring out the "No on Prop. 10" vote. If this law is overturned, it will have serious implications on all investment properties in our state, especially in Santa Barbara, where the current political climate is churning the waters of rent control.

Don't let this moment of truth pass you by! Help SBRPA and CaIRHA fight back and defeat this unsound and poorly written initiative that will benefit few individuals and will not add a single unit of affordable housing to the housing stock in our communities. Go to **Prop10Flaws.com** to find out how you can do more to help protect the property rights of owners and landlords across the state. How much do you rely on the internet to attract qualified renters to your property?

Recently, I had the opportunity to sit down with digital media specialists associated with Zillow Group. Originally conceived as a web site to help property owners sell their homes, Zillow has branched out and now has a separate platform dedicated to rental housing that also includes the websites Trulia and Hotpads. What I learned was interesting and thought-provoking. Digital media today has exploded beyond the twice-a-day listing on Craigslist. And anyone who has used Craigslist to look for an apartment in Santa Barbara recently knows how pervasive internet scams can be. Using data driven technology to filter through the "lookie loos" and arrive at true "prospects", Zillow shared some interesting information on the number of "page views" (the number of times a property website or listing is viewed) and "unique users" (individuals who stay on a web site for more than 15 seconds with no individual counted more than once) that utilize their platform in Santa Barbara and Goleta.

Utilizing information gathered from the top four properties that use their site, (note: the company that I am associated with does not use the site), in Goleta and Santa Barbara the results were a window into the world of digital users today. In November 2017, Santa Barbara properties were viewed 115,000 times with 19,000 of those staying

on the sites they accessed to get more information. In the same time period, Goleta had 31,000 page views with 9,000 unique users. In December 2017, Santa Barbara had 86,000 page views and 15,000 unique users. In the same period of time, Goleta had 27,000 page views and 7,000 unique users.

It was brought home to me that the digital revolution is continuing to explode and in some cases could pass us by unless we are diligent to the choices and preferences of all of our generational markets. Over 75% of all page views were accessed on mobile devices (phones or iPads). As an industry, we are way beyond relying on Craigslist to rent our apartment. These numbers resoundingly answered the question, "Well, who sees my listings anyway?" It is incumbent on all of us to be aware of the changes in technology and preferences in order to better meet the needs of our customers.

Finally, don't forget about SBRPA's upcoming very important annual fundraiser! It is not too late to sign up for our Annual Golf Tournament to be held at Glen Annie Golf Course on Friday, October 26, 2018. This year again, Yardi will be our Title Sponsor. Sponsorship and registration materials have been sent out 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 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. We look forward to seeing you there.

A graphic for a golf tournament. It features a green landscape with a golf course, a red flag on a pole, and a golf ball. The text reads: "Looking for Golf Tournament Volunteers for Oct 26th Fall Classic" and "Please contact Angela 805-687-7007". There is a circular logo for "SBRPA Fall Classic" in the bottom left corner of the graphic.

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

Ann Hammond, Richard B. Fortune,  
Arden Kysely, Angelina Martel,  
Gregg Patronym, Jessica R. Ruiz, Mark Taylor

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Are you an SBRPA member with questions?

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# NOMINATING COMMITTEE REPORT 2018

I am pleased to report that the Santa Barbara Rental Property Association Nominating Committee recommends to the general membership the election of the following slate of Board candidates to two-year terms.



**Chris Agnoli**

**Janet M. Eastman, CPM**

**Robert V. Kooyman, CPM**

**William B. Brace, CPM**



Jim Carrillo  
*Chair, Nominating Committee*



**PLEASE, help give a child  
a warm bed**



SBRPA's annual charity golf tournament supports TRANSITION HOUSE, Santa Barbara's only shelter for homeless families.

**DONATE RAFFLE or AUCTION ITEMS** for the tournament. All donations are tax deductible and we can provide donation receipt. We welcome any donation. Here are some ideas:

- **UNIQUE EXPERIENCE:** Your vacation home, Foursome at your golf club, boat trip, dinner at your home
- **GIFT CERTIFICATES:** Ask your favorite restaurant /clothing store/haircuts/massage to donate a gift certificate for charity
- **TICKETS:** theater, sport, museums
- **BASKETS:** Things for a theme basket - beauty products, spa day, wines, beers, coffees, auto care, "Staycation", pet care
- **FAVORITES:** Fitbit, Kindle, Bluetooth speakers, SONOS, television

Donations can be dropped off at either location below, or we can pick up.

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# BOARD OF DIRECTORS UPDATE

Janet M. Eastman, CPM® • Past President

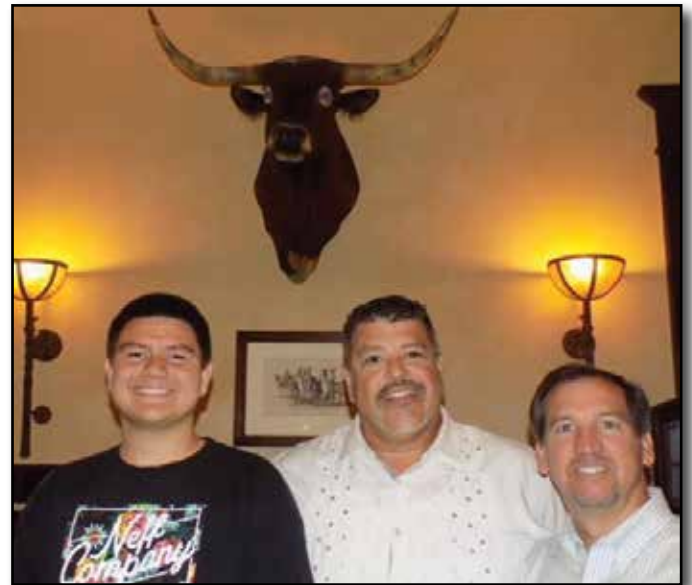


## THERE IS A NEW COWBOY IN TOWN!

SBRPA would like to welcome newest board member Harold Goodman! We are fortunate to have another North County representative on the board to advocate for the needs and interests of the many North County rental property owner members in our organization.

Mr. Goodman attended Cal State Los Angeles, where he obtained a degree in business administration. These days he enjoys spending time with his son and family as well as traveling abroad, overland, and ocean cruising.

Harold Goodman is a native of Los Angeles who relocated to the Central Coast in 2007 to manage his family's real estate portfolio. As part owner of their management and holding company, Santa Maria Properties, Mr. Goodman runs the day-to-day operations of the family's multifamily and commercial holdings. Santa Maria Properties maintains a staff of 9 employees to provide property management, leasing, and maintenance services for their 300+ multifamily units and 95,000 SF of commercial properties.



In addition, Mr. Goodman personally owns multiple residential rentals in Santa Maria as well as residential and commercial real estate in the Los Angeles area.

He has served on the Board of the Santa Maria Police Council for 5 years, including his time as president from 2016 through 2017, and is also active in the San Luis Obispo Sheriff's Advisory Foundation.

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## THE FLAWS

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## PROP 10

### Allows regulation of single family homes

Prop 10 allows government to dictate pricing for privately owned single-family homes, controlling how much homeowners can charge to rent out their home – or even just a room. It may even lead to bureaucrats charging homeowners a fee for taking their home off the rental market.

#### HOW WE KNOW:

[Legislative Analyst's Office analysis of Prop 10 \(A.G. File No. 2017-041\), December 12, 2017](#)  
*In 1995, the Legislature enacted the Costa-Hawkins Rental Housing Act (Costa-Hawkins), which placed limitations on locally enacted rent control laws. Specifically, Costa-Hawkins prohibited local rent control rules from applying to housing first occupied on or after February 1, 1995 and single-family homes. ... The measure repeals Costa-Hawkins. Under the measure, cities and counties can regulate rents for all types of housing regardless of age. They also can regulate how much a landlord may increase rents between tenants.*

### Places bureaucrats in charge of housing with the power to add additional fees

Prop 10 puts as many as 539 rental boards in charge of housing and gives government agencies unlimited power to add fees on housing that will be passed on to tenants in the form of higher rents – making homes and apartments even more expensive.

#### HOW WE KNOW:

[Legislative Analyst's Office analysis of Prop 10 \(A.G. File No. 2017-041\), December 12, 2017](#)  
*Rent control laws typically are administered by local rent boards, which are funded through fees on regulated property owners. ... Depending on actions taken by local governments, these costs could range from minimal to tens of millions of dollars per year. These costs likely would be paid by fees on owners of rental housing.*

### Drives up the cost of existing housing

Prop 10's new government fees and regulations will give homeowners a huge financial incentive to convert rental properties into more profitable uses like short-term vacation rentals, increasing the cost of existing housing and making it even harder for renters to find affordable housing in the future.

#### HOW WE KNOW:

[Legislative Analyst's Office analysis of Prop 10 \(A.G. File No. 2017-041\), December 12, 2017](#)  
*Conversion of Rental Housing to Ownership Housing. Owners of rental housing subject to rent control are more likely to convert their properties to condos or other forms of ownership housing. This results in fewer homes being available for rent and more being available for purchase.*

### Affordable Housing Act

The People of the State of California do hereby ordain as follows:

#### Section 1. Title.

This Act shall be known and may be cited as "Affordable Housing Act."

#### Section 2. Findings and Declarations.

...

#### Section 3. Purposes and Intent.

...

#### Section 4. Affordable Housing Act shall be codified by repealing the following sections of the Civil Code:

Sections 1954.50, 1954.51, 1954.52 and 1954.53 of Chapter 2.7 of Title 5 of Part 4 of Division 3 of the Civil Code are repealed.

#### Section 5. Affordable Housing Act shall be further codified by adding the following section to the Civil Code:

Section 1954.54. (a) A city, county, or city and county shall have the authority to adopt a local charter provision, ordinance or regulation that governs a landlord's right to establish and increase rental rates on a dwelling or housing unit. (b) In accordance with California law, a landlord's right to a fair rate of return on a property shall not be abridged by a city, county, or city and county.

#### Section 6. Liberal Construction

This Act shall be broadly construed to accomplish its purposes.

#### Section 7. Amendment and Repeal

Pursuant to Article II, Section 10, Subdivision ( c ), of the California Constitution, the Legislature may amend this Act to further its purposes by a statute passed in each house by roll call vote entered in the Journal, two-thirds of the membership concurring, signed by the Governor. No statute restricting or eliminating the powers that have been restored by this Act to a city, county, or city and county to establish residential rental rates shall become effective unless approved by a majority of the electorate.

#### Section 8. Severability

If any provision of this Act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

#### Section 9. Conflicting Measures

In the event that this Act and any other measure addressing the authority of local government agencies to establish residential rental rates shall appear on the same statewide election ballot, the provision of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes than another measure deemed to be in conflict with it, the provisions of this Act shall prevail in their entirety, and the other measure or measures shall be null and void.

#### Section 10. Legal Defense

Notwithstanding any other provision of law, if the State, a government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, the proponents shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether in state or federal court, and whether such action is in any trial court, on appeal, or on discretionary review by the Supreme Court of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the California Department of Justice, which shall be satisfied promptly.

#### Section 11. Effective Date

Except as otherwise provided herein, this Act shall become effective the day after its approval by the voters.

Find out more at: [WWW.READITFORYOURSELF.COM](http://WWW.READITFORYOURSELF.COM)

Paid for by No on Prop 10 – A Flawed Initiative That Will Make The Housing Crisis Worse  
a coalition of housing advocates, renters, large and small businesses, taxpayer groups, and veterans  
Committee major funding from

Michael K. Hayde, including Western National Group & Affiliated Entities  
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Geoffrey H. Palmer  
funding details at [www.fppc.ca.gov](http://www.fppc.ca.gov)

## Rent Control-General Talking Points

- Economists overwhelmingly agree that price control on rent are inefficient, counterproductive and lead to serious negative impacts for housing markets.
- Rent control has significant negative impacts on the condition and supply of existing rental housing.
- With limited ability to recover operational costs, owners may have to postpone or reduce investment in maintenance and improvements to rent controlled properties.
- Over time, this lack of investment expedites the deterioration of these buildings and eventually leads to the loss of critically-needed rental housing.
- When price controls on rental housing are lifted, however, significant new investment in maintenance and rehabilitation takes place.
- To preserve the quality and value of their properties, owners may also convert rent-restricted units to condominiums, housing not subject to rent control or commercial property.
- Rent control also discourages the development of new rental housing which is crucial to restoring the balance between supply and demand in local housing markets.
- With no ability to earn a profit on their investment, developers are incentivized to take their dollars to other, non-rent-controlled communities.
- By discouraging development and encouraging conversions, rent control effectively restricts supply, driving up housing costs.
- Rent control costs local governments critical revenue as the assessed value of rent controlled properties decline and with it the property tax taxes they generate.
- This foregone revenue might be a worthwhile tradeoff if the primary beneficiaries of rent control were low-income families, however, the reality is that they are not.
- With almost no exceptions, rent control laws are not income-targeted allowing anyone along the income spectrum to take advantage of rent restrictions, regardless of need.
- In fact, rent control can lead to increased gentrification and a decline in low income residents.
- Administration and enforcement of rent control policies also require the creation of a large local government bureaucracy at a significant cost to the taxpayer while little benefit.
- Housing development, rehabilitation and maintenance generate significant economic benefits in terms of job creation, wages and overall economic output. Rent control eliminates most of this benefit as rental housing activity is significantly reduced or eliminated.



# 2018 GOLF SPONSORS THANK YOU

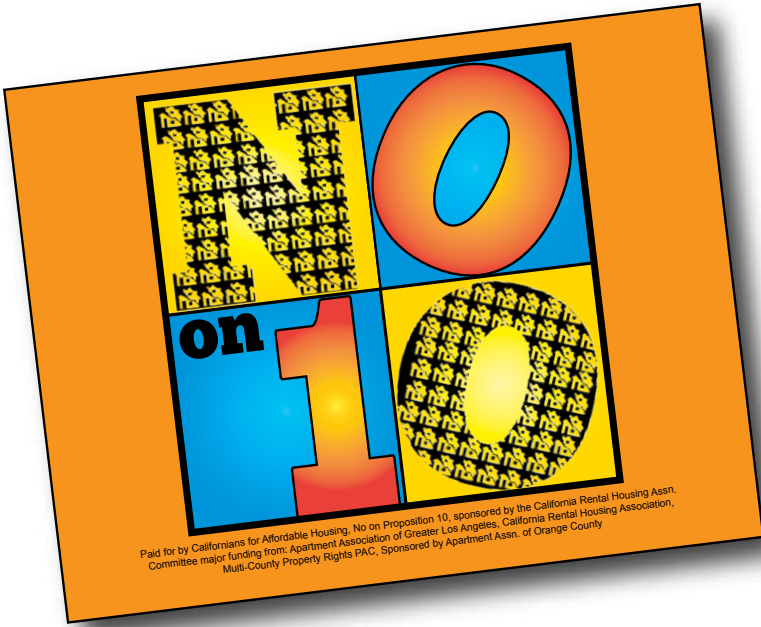


*Special thank you to Ventura Investment Company for dinner sponsorship!*



*The 2018 Charity Golf Tournament will benefit Santa Barbara's Transition House.*

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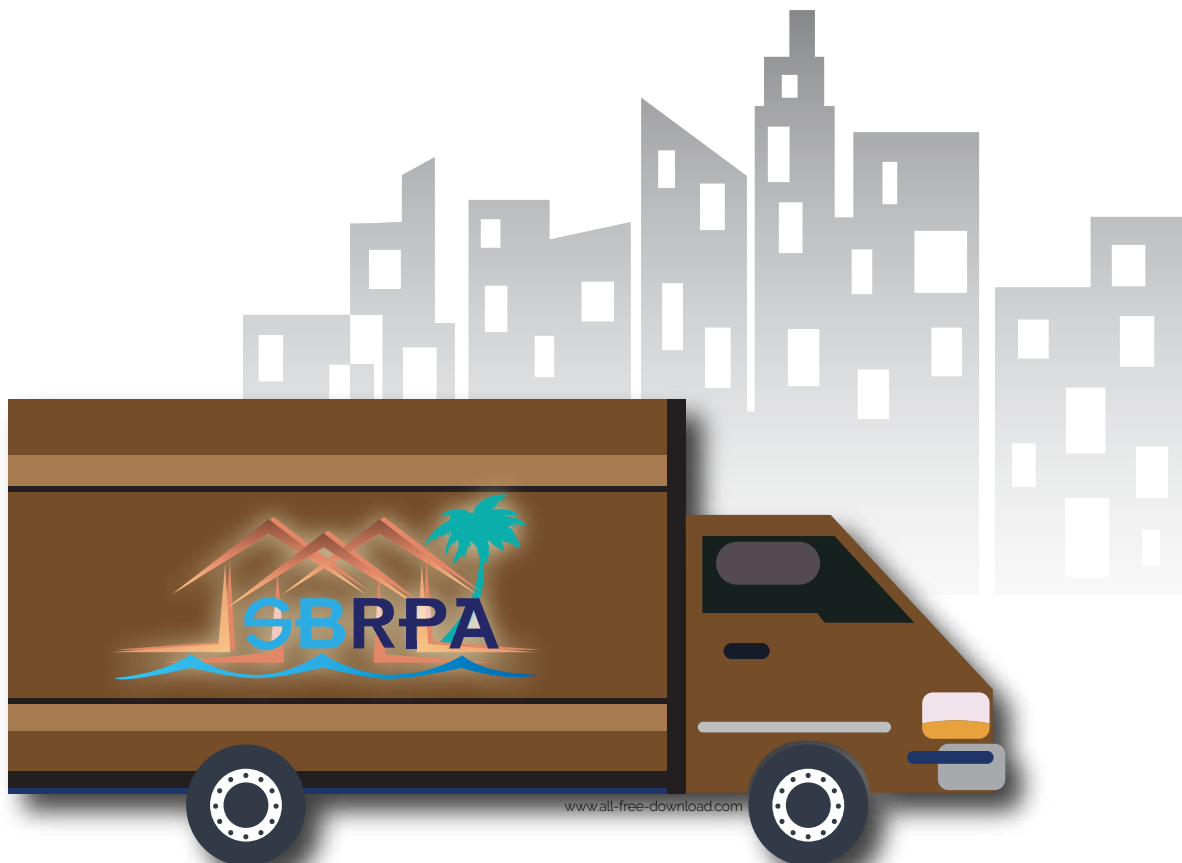


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# Sacramento Report



**Steve Carlson**



**Jonathan Arambel**

*AAGLA's Sacramento Lobbyists*

The 2017 - 2018 legislative session is now over. There were over 5,000 bills introduced during the 2-year session. We have been covering the year's new bills as they have gone through the process, but it was just about 12 months ago that the Governor signed a package of 15 housing bills. While we think most were helpful, we fundamentally disagree with AB 1505, the inclusionary housing bill, that was part of the package. We can't win every fight, and the overall outcome of 2017 was pretty good. There were well over 120 bills dealing with the housing crisis. AB 1506, the bill to repeal Costa-Hawkins, failed earlier this year in the Assembly Housing Committee, but it was first introduced in February of last year. It was the first time since the 1995 law was passed that it was under attack. Last year the floodgates opened for housing-related legislation. This year we had to work on bills extending the eviction process, Ellis Act reform, and statewide just cause. Our industry was still under attack.

With the session now over, everyone's focus has turned to the elections. Proposition 10 is an existential threat to our industry. We will, barring any

unforeseen miracles or mishaps, have a more liberal Governor in Gavin Newsom. The Democrats in the legislature are predicted to add to their two-thirds majority. All of this is to say that we cannot rest on our success this session. Housing providers continue to be on the chopping block, and we must stay engaged and focused. We must find and work with elected officials who want to be housing champions. Champions that understand the way out of the housing crisis is to build more housing units. Gavin Newsom doesn't support a repeal of Costa Hawkins but does support some form of rent control. He also wants to build 3.5 million new homes by 2025 which is nearly quadruple what California is currently building. We have very few legislators that will be with us on 100% of our issues (even though we are always right). Our goal is to find as many as we can who have an open mind and are willing to hear us out. Our job will be tougher next year as the legislature trends more to the liberal side, but we will continue to advocate for housing providers and the need to make it easier and more attractive for new units to become available.



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## The biggest threat to your rental property investment is . . . . **NOW!**

On November 6, 2018 the value of your investment in California rental property could be very significantly impacted. It is “ground zero” for rental property. It is the most serious threat rental property owners have ever faced in California.

Tenant groups across the state have mobilized to vote on November 6th for Proposition 10. If they succeed, Prop 10 will repeal Costa Hawkins. Current statewide limitations on rent control adopted by local cities and counties will become void. Prop 10 will immediately allow your city to enact ordinances that:

- Prohibit owners under rent control from adjusting their rental rates on vacancies to the current market rate (“vacancy decontrol”)
- Allow rent control of all rental property, even those built after 1995
- Allow rent control of single-family homes and condominiums.

Prop 10 can only be reversed in the future by **another statewide ballot vote**. In addition, taxpayers will pay any Prop 10 challenges. Thus, once Prop 10 is passed, supporters are ensured ample funding to defend against any legal battle.

It’s your livelihood! Prop 10 will not only impact owners’ rental income; new rent control measures can significantly decrease the resale value of your property.

Today is our opportunity to stop it. Your California Rental Housing Association (CalRHA) is actively engaged in leading the fight for NO ON 10 in alliance with other organizations. We have recently launched a significant media campaign focused on the undecided voter.

Unfortunately, the tenant groups are not only well organized, they are well-funded.

It will take a lot of money to reach Californian voters and help them understand why they must vote NO on PROP 10. Together we can reach the undecided voters in California with a winning message. However, to do this requires every owner to participate. To succeed, NO ON 10 needs you.

Time is short. Absentee voting begins in a month. Now is the final push to win. Please dig deep. Protect your investment. Join us by contributing at least \$100/unit today. As rental property owners, we became successful by watching every penny. Realize that a \$100/unit investment **now** in the NO on 10 campaign is less than the annual cost/unit you could end up paying **every year** to a Rent Control Board.

Donate locally TODAY by mailing your contribution to the SBRPA Issues Political Action Committee (envelope attached).

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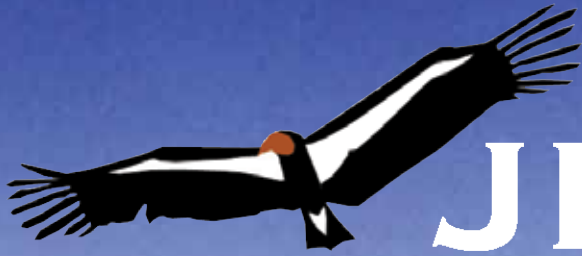


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# The Attorney's Corner

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## Update on Pre-Moveout Inspection and Return of Security Deposit Requirements

While the statute (Civil Code § 1950.5) has not changed, the practice of accounting for and properly noticing tenants of their rights is trap for the unwary and requires review. Recent tenant-generated litigation over security deposits and propriety of notices is an encouragement to you to review and then “ask” now about what you can do to mitigate against the potential of litigation over well-intended practices that may not entirely comply with statutory requirements.

As you probably know, the statute governing the return of residential security deposits is found in Civil Code section 1950.5. It requires that a landlord provide not only a pre-move out inspection option to their tenants but also to provide a proper accounting of any good faith and authorized deductions made from the security deposit within twenty-one (21) days of the tenant vacating the rental unit. If you haven't reviewed the code for compliance, now is a good time to do so. You should also pay attention to Civil Code § 1950.5 (f)(1) which has mandatory language that needs to be included in your pre-move out inspection notice (see below quoted language).

### The Initial Deposit

A security deposit is any money a landlord takes from a tenant other than the advance payment of rent. The security deposit serves to protect the landlord if the tenant breaks or violates the terms of the lease or rental agreement and therefore may be used to cover damage to the property, cleaning, key replacement, or unpaid rent. (**Note:** *If a tenant pays as part of his security deposit an amount that was designated in the lease or rental agreement as “last month's rent,” that amount may be used to cover the last month's rent. Other forms of security deposit cannot be used to pay the last month's rent unless the landlord specifically agrees to allow it.*)

There are limits on the amount of the security deposit depending on the classification of the property as residential or commercial, and whether it is furnished. If the security deposit is for a residen-

tial property without furniture, the security deposit may equal 2 times the rent. If the residence is furnished, the landlord may charge up to 3 times the rent. For commercial properties, however, there is no limit to the amount of security deposit. A question may arise as to whether or not utilities can be defined as rent, and if so would that allow for an increase in the deposit amount commensurate with the monthly utility charges. Some leases do define any additional payments owed under the lease as rent. If you intend to add “utilities” as additional rent for purposes of inclusion in computation of security deposit, you should consult with counsel.

Within a reasonable time after notice of either party's intention to terminate the lease, or before the end of the lease term, a landlord must provide a tenant with notice of his right to a pre-moveout inspection (see Civil Code § 1950.5(f)(1)). The statute requires the following language to be included in the notice: “State Law permits former tenants to reclaim abandoned personal property left at the former address of the tenant, subject to certain conditions. You may or may not be able to reclaim property without incurring additional costs, depending on the cost of storing the property and the length of time before it is reclaimed. In general, these costs will be lower the sooner you contact your former landlord after being notified that the property belonging to you was left behind after you moved out.” Failure to include this language may limit your ability to charge for storage and give rise to tenant challenges that create unnecessary legal expense.

When requested, the inspection provides the landlord and tenant an opportunity to identify what may be deducted from the tenant's security deposit. The items identified should be listed on a pre-moveout report, which must include certain statutory language (see Civil Code § 1950.5(f)(2)). The report must be given to the tenant or, if the tenant does not attend the inspection, left at the premises (*Ibid.*).

After a tenant moves out, a landlord has 21 days to either return the tenant's deposit in full or provide

*Continued on page 29*





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an itemized list of deductions including copies of receipts for the charges/deductions. If the repairs cannot be finished within the 21-day period, the landlord can send the tenant a good faith estimate of the cost of repairs. The landlord is allowed to make a good faith estimate of charges and include the estimate in the itemized statement in two situations: (1) the repair is being done by the landlord or an employee and cannot reasonably be completed within the 21 days, or (2) services or materials are being supplied by another person or business and the landlord does not have the invoice or receipt within the 21 days. In either situation, the landlord may deduct the estimated amount from the security deposit. In situation (2), the landlord must include the name, address and telephone number of the person or business that is supplying the services or materials. Then, within 14 days of the repairs being done, the landlord must send the tenant the receipts. Occasionally, tenant-caused repairs are extensive and take months, and therefore it can be easy to overlook the final requirement of sending receipts within 14 days of completion if the tenant has been out of possession for months. It is advisable to send a cover letter regardless of the amount being returned, as it provides documentation of the landlord's good faith effort to comply with security deposit law.

### **Security Deposit Deductions**

A landlord can deduct the following from the tenant's security deposit:

- The cost of fixing any damages to the property caused by the tenant or the tenant's guests. This does not include ordinary wear and tear.
- The cost of cleaning the unit when the tenant moves out, but only to make the unit as clean as it was when the tenant first moved in (less reasonable wear and tear).
- Unpaid rent (including rent owed if the tenant does not give the landlord the proper notice that he or she is moving out).

The landlord can withhold from the security deposit only those amounts that are necessary and reasonable, and not a result of "ordinary and reasonable wear and tear." For example, a landlord may not make tenants pay for painting, new carpets, or curtains unless they are damaged beyond ordinary and reasonable wear and tear. And the landlord cannot use the tenant's security deposit to repair problems that existed in the unit before the tenant moved in. Ordinary wear and tear is a broad standard and common sense is always appreciated by the courts when individuals are given discretion to make such decisions.

Cleaning the unit, replacement of carpet and drapes, and repainting/repairing walls are common areas of repair impacted by the reasonable wear and tear limitation. A landlord may properly deduct from the departing tenant's security deposit to make the rental unit as clean as it was when the tenant moved in. With regard to cleaning costs, the landlord should look at how well the departing tenant cleaned the rental unit, and may charge cleaning costs only if the departing tenant left the rental unit (or a portion of it) less clean than when he or she moved in. Reasonable cleaning costs would include the cost of such things as eliminating flea infestations left by the tenant's animals, cleaning the oven, removing decals from walls, removing mildew in bathrooms, defrosting the refrigerator, or washing the kitchen floor.

Normal wear and tear to carpets, drapes, and other furnishings cannot be charged against a tenant's security deposit. Normal wear and tear includes simple wearing down of carpet and drapes because of normal use or aging, and includes moderate dirt or spotting. In contrast, large rips or indelible stains justify a deduction from the tenant's security deposit for repairing the carpet or drapes, or replacing them if that is reasonably necessary.

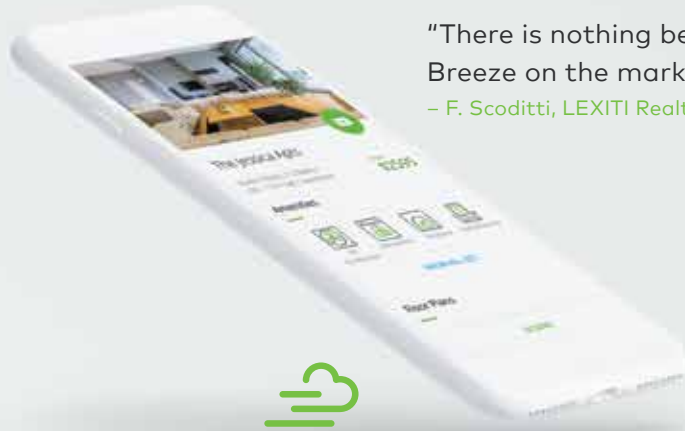
If possible, landlords should be familiar with the expected life of larger items in the unit, such as carpeting, which provides an objective standard for wear and tear. For example, if a tenant moves into a unit with newly installed carpet with an expected life of 10 years and vacates after five years leaving the carpet in need of replacement, the proper deduction would be for half the cost of the carpet, for it should have been in good enough condition to last another five years but for the tenant's use. Individual circumstances may dictate different results dependent on condition of the property and increased costs of replacement. If you have major repair or replacement issues, it would serve you well to contact counsel.

A similar approach can be used for determining the amount that the landlord can deduct from the tenant's security deposit for repainting when repainting is necessary. Generally, paint is given a two or three year expected life, depending on condition at time of rental, and thus if a tenant resides in the same unit for longer than three years, the landlord may not be able to deduct from the security deposit to pay for repainting, because that cost would be for ordinary wear and tear. What constitutes ordinary wear and tear is not defined by statute. It may be that periodic inspections regarding

*Continued on page 31*



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condition of the unit can help document and avoid disputes at the end of a longer lease term, in particular where damage is noted early on and tenant has a duty to maintain the unit after move in.


For a tenant who takes occupancy of a unit with fresh paint and vacates a year later leaving the unit in dire need of repainting, the landlord would be able to deduct for a portion but not all of the repainting cost, because the paint should have lasted for two or three years, rather than one, and thus the wear and tear was not ordinary.

Where there are multiple tenants/roommates, the security deposit return can become more complicated. If the person moving out gave the deposit to the landlord, and the landlord has a separate rental agreement with the roommate moving out, the landlord returns the deposit (and follows the required procedures for return/deductions). If, however, the roommates all signed one rental agreement for the unit and only one of the roommates moves out, the landlord may not have to return the security deposit until all the roommates have left. Your rental agreement/lease should be reviewed to make sure what are the requirements specified for return of the deposit whether by one or more checks and whether or not there are to be more than one payee.

### **Avoiding Security Deposit Disputes**

Documentation is almost always the best practice and can save landlords the expense of legal disputes. Landlords should photograph the condition of the rental unit before tenants move in and when they move out. This will help to prove what they did or did not do to damage the property. Landlords should perform move-in inspections and generate move-in reports identifying impairments or issues to the premises. Some leases even indicate that the tenant's failure to note condition issues on a move-in report constitutes a waiver of the right to assert the premises were in a different condition than that stated on the report. Before the end of the tenancy, the landlord must provide notice to the tenant of his right to a pre-moveout inspection, the purpose of which is to identify potential deductions from the security deposit. The report/checklist generated from this pre-moveout inspection should be left at the premises after the inspection if the tenant is not present. Even where the tenancy ends prematurely or abruptly, landlords should take care to provide tenants with the notice and opportunity to conduct pre-moveout inspections and fully comply with security deposit law as set forth in Civil Code section 1950.5.

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 Groknerberger at David@rogerssheffield.com; Michael Brejle at Mike@rogerssheffield.com, or Scott Soulages at ssoulages@rogerssheffield.com.



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# Santa Barbara Happenings

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## Rent Control is a Bad Idea

A lesson learned from Los Angeles and San Francisco is that rent control does not provide an answer to housing shortages anywhere and generally makes it more difficult to find affordable rentals.

People in rent-controlled apartments are unlikely to move, even for higher wages or better jobs. Young renters and families cannot find units to rent. This suppresses long-term economic growth and depresses the neighborhood's development overall.

Property owners remove units from the market and find alternatives to the traditional landlord/tenant model, all to the detriment of seniors and low-income families.

Fewer housing developments will be constructed due to the difficulty of making a profit from residential housing in a city with rent control. Developers will build commercial structures instead.

The consequences for the bad economic policy (rent control) is that renters face even more limited housing opportunities, and those they find are either run down or unaffordable. On the other hand, landlords lose money and ultimately stop investing in building altogether.

So, who does rent control help? Unfortunately, only the politicians.

### **Proposition 5 Proposes to Expand Property Tax Basis Transfers and Allow Major Savings for People Over 55 and/or Disabled**

Proposition 5 proposes several amendments to Proposition 13 passed in 1978. Most notably, it will ease certain people's (over 55 or disabled) ability to transfer their property tax basis to newly acquired properties.

Proposition 13 currently limits the amount that local governments can increase property taxes. This cap is generally two percent (annually) of the base year value of real property, unless and until a change in ownership occurs or substantial improvements are made to the property. This has meant that people who have owned real property for significant periods of time typically pay a

fraction, in property taxes, of what they otherwise would be if their property were assessed on current sky-high market values.

Right now, there are only a few limited exceptions for when a property tax basis can be transferred from one property to another. Proposition 5, if passed, will expand several current exceptions. Some of the significant expansions include allowing people over 55 and/or disabled to: (1) transfer their property tax basis as many times as they desire (currently, only one time is allowed), (2) transfer property tax basis to a real property across county lines, and (3) transfer their property tax basis even when the real property acquired is worth more than the property sold.

Proposition 5, if passed, will significantly help qualified landowners seeking to transfer properties that currently have a low property tax assessment by allowing them to take their existing property tax assessment to the new property.

*(Editor's note: I'm thinking yes.)*

### **They Really Want to Undo Landlord Protections: Proposition 10 Backer Gives 10 Million Dollars in Support of Campaign**

In August 2018, the AIDS Healthcare Foundation increased the total money raised for the Proposition 10 Initiative by nearly 5 times what had been raised to that point. This infusion of cash means that the proponents of the Initiative will likely be spending considerable amounts of money in the time leading up to the election in November.

Proposition 10, if passed, would repeal the Costa-Hawkins Act. The Costa-Hawkins Act, passed in 1995, allows landlords statewide to raise rents to market rates if a tenant voluntarily vacates or is evicted - even in cities that have passed rent controls. The Act also exempts single-family homes from rent control as well as those units built after 1995. The effect of the passage of this Initiative would be that local cities and counties would have essentially no regulations, except those required by the California Constitution, on what rent control measures could be imposed.

*Continued on page 35*



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This proposed new law is extremely problematic. California cities and counties will wield extraordinary power in determining if and how to impose rent control, even in its most ugly forms. Their power will only be checked by property owners filing lawsuits claiming that the individual ordinance does not allow the property owner to obtain a fair return. This means that property owners will be stuck battling each ordinance, through the time consuming and expensive court system, on the grounds that it would not allow for a fair rate of return.

In a city like Santa Barbara where the City Council is heavily progressive leaning and some councilmembers have already expressed a desire to implement landlord-tenant reform, the significance of Proposition 10 cannot be overstated. If passed, Proposition 10 will likely put new wind in the sails of local tenant advocate groups in their effort to have rent control passed in Santa Barbara.

In this final stretch, it is important that all property owners oppose Proposition 10 and make sure that one clear and united voice is heard by the voting public. If you would like to donate to or get involved in the campaign opposing Proposition 10 you can do so by visiting <https://noprop10.org/>.

*(Editor's note: I'm definitely No on 10.)*

### **Two Proposals for Independent Commission to Draw District Lines**

Two initiatives on this November's ballot both aim to combat "gerrymandering" (manipulation of electoral boundaries to favor one group) by creating an independent redistricting committee for the five Santa Barbara County supervisorial districts.

Currently, the County Supervisors vote once every ten years to redraw the district boundaries based on the most recent census numbers. Those in power pursue boundaries that will help them stay in power and extend their control. The Supervisors have effectively had the power to choose their own voters.

For example, for a decade former Democratic Congresswoman Lois Capps represented a district that was drawn intentionally to give her a 12 percent advantage in registered Democrats over registered Republicans. The 23<sup>rd</sup> Congressional District, a 200-mile narrow strip of land along the California coast, was known as the "ribbon of shame" because it was drawn so selectively and close to the coast that voters said it disappeared at high tide.

However, in 2016 California counties were authorized to establish binding independent redistricting commissions to eliminate

gerrymandering in supervisorial districts. Reason in Government, a citizens group self-described as "the voice of the radical center," jumped at the opportunity and collected more than 16,000 signatures to get its independent commission initiative on the ballot.

Reason in Government's initiative involves a committee of 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.

In response to Reason in Government's initiative, a competing proposal was created at the direction of First District Supervisor Das Williams. The "You Draw the Lines" initiative calls for a commission of eleven members, with at least two members coming from each supervisorial district.

If neither proposal passes, it will revert back to the current system where Supervisors themselves decide the redistricting. If both proposals pass, the one with the highest vote percentage will prevail.

*(Editor's note: Both are better than the current scheme.)*

### **Goleta Voters – Not City Council - to Elect Mayor in November**

In Goleta's first-ever race for mayor, incumbent council members Michael Bennett and Paula Perotte will face off. Previously the City elected five council members and rotated the mayor's position among them.

Bennett, who joined the Council in 2006, has served as mayor. Perotte has served on the Council since 2010 and currently sits as mayor.

Bennett and Perotte's Council terms expire this year, so whoever loses the mayor's race will leave the Council.

*(Editor's note: I'm thinking Bennett.)*



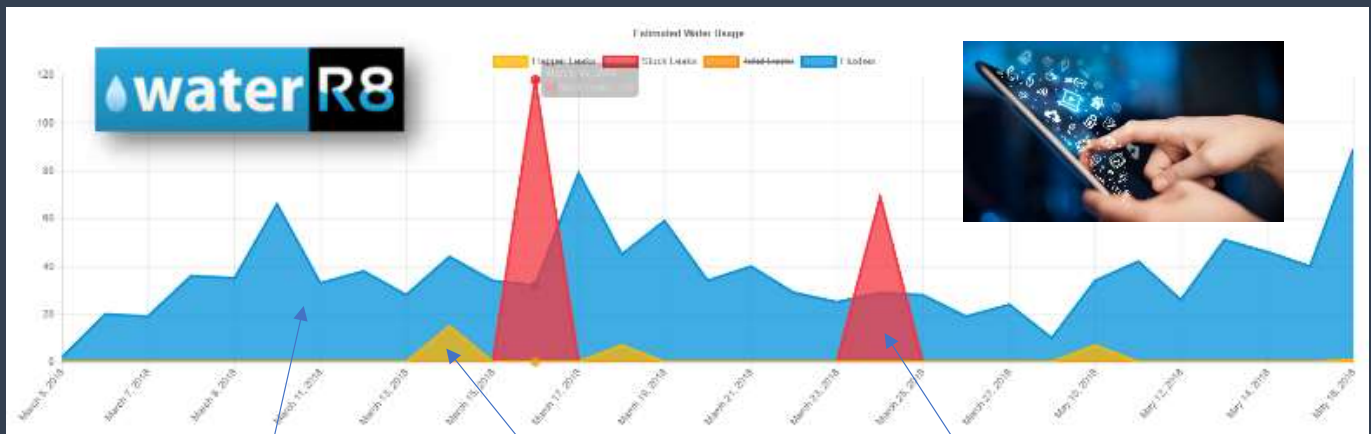


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# Directory of Products & Services

## INDEX OF ADVERTISERS

Battaglia Commercial Real Estate....	10
Beach House Inn .....	28
Beau Brunner Painting.....	19
Betty Jeppesen, Esq.....	19
Berkshire Hathaway – Ken Switzer..	21&25
Bill Terry Insurance.....	2
Central Coast Investments.....	23
Central Coast Paving .....	4
Darkblade Enterprises .....	31
DMH Properties .....	28
Don’s Heating & Air Conditioning ....	34
Frederick Lang R.E. Appraiser.....	19
Hayes Commercial Real Estate .....	18
Hermosa Painting .....	24
Insight Environmental .....	23
John E. Peakes Insurance Agency ...	26
Jody’s Windows & Floors.....	30
Keller Williams Commercial .....	12
Magid Masonry .....	23
MasterCare Home Cleaning Services .	24
Mendez Building Services .....	19
Meridian Group .....	28
Pearl Bay Corporation .....	24
Radius Group .....	22
Rogers, Sheffield & Campbell, LLP...	23
Salsbury Industries.....	10
Sandpiper Property Management ....	37
San Roque Realty .....	5
Sensor Industries .....	36
Sierra Property Management.....	32
Spectrum Realty .....	8
The Laurel Company .....	8
Tower Property Management.....	5
Wash Laundry Systems .....	40
Winn Realty .....	8
YARDI.....	30

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