

# SANTA BARBARA RENTAL PROPERTY news

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



Photo: SBIndependent.com

Santa Barbara City Attorney Ariel Calonne

## Compliance with Mandatory 1-year Lease Requirements



June 20, 2019

**SBRPA Member Meeting with City Attorney Ariel Calonne . . . . . page 10**



## Old Santa Ynez Day



Images: visitsyv.com

June 8, 2019

**Visit the SBRPA Booth**  
(where Board Members will answer questions). . . **page 20**



**Santa Maria Fair Housing Seminar . . . page 18**

June 4, 2019

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# SANTA BARBARA RENTAL PROPERTY news



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### SBRPA OFFICE

Mon-Fri • 9am-5pm  
Closed for lunch 12-1pm  
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# CALENDAR

## NEW DATE & Location

**Tuesday, June 4, 2019 10:00am - 12 noon**

### N. County-Santa Maria Fair Housing Seminar

*Santa Maria Radisson, 3455 Skyway Drive, Santa Maria*

The North County-Santa Maria Fair Housing Seminar will be co-sponsored by the Legal Aid Foundation of Santa Barbara and SBRPA. Guest speaker is Chandra Carr from the Legal Aid Foundation.

RSVP to [programs@sbrpa.org](mailto:programs@sbrpa.org). For more information, see page 18.

**Saturday, June 8, 2019 11:00am - 4:00pm**

### Old Santa Ynez Day Celebration

*Sagunto Street, Santa Ynez, CA*

Come join SBPRA Board Members and the Executive Director at their booth, to discuss your questions about the current local and state legislation that is going to impact your business.

For more information, see page 20.



**Thursday, June 20, 2019 9:00am - 10:15am**

### SBRPA Member Meeting

*SBAOR, 1415 Chapala St, Santa Barbara, CA 93101*

Come to a special meeting with Santa Barbara City Attorney Ariel Calonne, who will answer questions on the new Mandatory 1-year Lease ordinance.

For more information, see page 10.



Photo: Santa Barbara Independent

JUNE 2019						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
26	27	28	29	30	1	2
3	4	N. County Santa Maria Fair Housing Seminar	5	D-Day 75	6	Santa Ynez Old Days Celebration
9	10	11	12	13	14	15
16	17	Ofc closed 1PM BODMtg	18	19	SBRPA Member Mtg	20
23	24	25	26	27	28	29
30	1	2	3	4	5	6

The office will be closed on Fridays throughout the summer.

## JUNE 2019 EVENTS

- June 4, Tue., Santa Maria Fair Housing Seminar
- June 8, Sat., Old Santa Ynez Day Celebration
- June 18, Tue., Office closed, BOD Meeting (1:00-5:00PM)
- June 20, Thu., Special SBRPA Member Meeting
- June 26-27, NAA National Apartmentalize Conference

**Wednesday-Thursday, June 26-27, 2019**

### NAA National Apartmentalize Conference

*Colorado Convention Center, Denver, Colorado*

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[www.aagaonline.com/events/naa\\_apartmentalize](http://www.aagaonline.com/events/naa_apartmentalize)



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# SBRPA President's Message

James Carrillo • CPM®, SBRPA President



When I was a kid in the 60s, like most kids, my earliest impressions were formed by what my parents gave me, or in some cases, did not give me. Two strong impressions given to me by my parents were an absolute love of baseball and the Los Angeles Dodgers, and a daily copy of the Los Angeles Herald Examiner. This was the Hearst newspaper in Los Angeles and a direct competitor to the Los Angeles Times. Eventually, the Examiner would fade away.

When I would read the newspaper, I did not go to my favorite section first. Rather, I would start with the front page and work my way back. Eventually, I would get to the sports page where, during baseball season, I would memorize the standings of the 10 teams in the National League and the 10 teams in the American League. No playoffs in those days. The NL champion would play the AL champion in the World Series and that was that. Reading the paper almost daily also gave me an appreciation for anything political. I knew the names of many of the national, state and local politicians and where they stood on issues that were important to my parents and consequently, to me too. This interest never left me, and while not directly involved in politics, I remained active in the communities I lived in and made sure to keep myself current on issues that would affect me or my family or social circles.

A phrase that is most commonly associated with the former Speaker of the House Tip O'Neill is, "All politics is local." To a great extent, this has been proven true in the last two years in Santa Barbara. As a result, we will soon have an ordinance requiring mandatory one-year lease offerings for all multifamily rentals and soon after that, a "Just Cause" ordinance. Despite the best efforts of SBRPA along with the Santa Barbara Association of Realtors and the California Apartment Association, rental housing in Santa Barbara will change significantly in 2019.

While our association opposed any "Just Cause" ordinance, some members of the current City Council have already expressed their opinion that this is not enough. They have their eyes firmly set on rent control. The current composition of the council has the ability to make this happen. That would result in dire consequences for the rental market in Santa Barbara. Historical data has shown that

rent control is not the answer to the rental housing shortage. In Berkeley, California the inventory of rental housing stock went down by 30% in the ten years following the implementation of rent control as owners pulled their rental units off the market or converted them to condos as a result of rent control.

Thankfully, we still have the power of the ballot box at our disposal. In November, four of the seven seats on the Santa Barbara City Council will be up for a vote. This November will be crucial to the future of our efforts as an association in fighting to hold back the onerous wave of legislation that the current council would love to throw at the property owners of Santa Barbara. Don't let this opportunity pass you by. Soon, we will know the candidates that will be running to oppose the current leadership of the city. SBRPA will do its due diligence and make sure that you are aware of which candidates we believe would be the best choices to represent the interests of property providers.

It doesn't matter when you first became interested in politics. You may be an experienced voter with a firm belief in your positions, or you may just now be realizing the impact that local decisions can have on your livelihood and plans for your future. It doesn't matter. To be involved now is what matters. Don't let this opportunity pass you by. No one fights alone, and SBRPA will be here doing our best to represent you in the battles ahead. But we need you. Whether it is with your time, talent or financial support, we need you. We will have more details on this subject in the future. In the meantime, feel free to call Executive Director Laura Bode at 805-687-7007 to find out how you can help now.



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Want to become more involved in the rental housing industry in Santa Barbara County?

## *Interested in joining other local leaders to share ideas and information?*

The SBRPA Board of Directors is seeking a couple of candidates for the SBRPA Board and SBRPA committees.



*1929 SBRPA Meeting*



*Holiday dinner at the Yacht Club*

## *Qualifications?*

Be an owner, property manager, or in a business that serves the rental housing industry.

Conduct your own business with the highest ethical standards.

Make a time commitment of 5 hours minimum per month.

## *Benefits?*

You will be privy to the most current information on what is happening in the Santa Barbara rental business.

You will be part of a group of knowledgeable and experienced leaders in the rental housing industry who represent the small "mom-and-pop" owners, the large multi-site owners, and the professional partners who support them.

You will learn, improve your professional skills, increase your network of industry peers, and have great fun doing so.



*SBRPA Board of Directors*

If you are interested in joining us, please contact Executive Director Laura Bode for more information.

[Laura@sbrpa.org](mailto:Laura@sbrpa.org) or 805-687-7007.





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## **SBRPA WELCOMES NEW MEMBERS**

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# SBRPA SPECIAL MEETING FOR MEMBERS



S.B. City Attorney  
Ariel Calonne

Mr. Calonne received his law degree at UC Hastings College of the Law in San Francisco and his undergraduate degree in biology from the University of California at Riverside. Before coming to Santa Barbara in March 2014, he spent 7 years as the city attorney of Ventura, 4 years as the city attorney of Boulder, Colorado, and 13 years as the city attorney of Palo Alto.

Mr. Calonne served as President of the City Attorneys Department of the League of California Cities in 1998-1999 and was named Public Lawyer of the Year in 2003 by the Public Law Section of the State Bar of California. In 2006, the Colorado Metro City Attorneys Association honored him with the Outstanding City Attorney award.

## **Santa Barbara's new Assistant Prosecuting Attorney for Housing, Denny Wei.**

Beginning June 17, 2019, Denny Wei starts in the newly created position of Assistant City Prosecutor for Santa Barbara, specializing in housing.

He was a Senior Assistant City Attorney with the Burbank City Attorney's Office. Mr. Wei worked prosecuting state misdemeanors and local code offenses in the City of Burbank's Criminal Prosecution Unit between 2006 and 2018.

City Attorney Calonne commented, "We are fortunate to bring such an exceptionally well-qualified prosecutor to Santa Barbara. Denny will bring a new level of credibility and professionalism to the City's enforcement actions."

*How do I comply with the new Mandatory 1 year lease ordinance?*

*Do we have "Just Cause" in the City of Santa Barbara?*

*What is happening on the State level?*

In Santa Barbara, confusion has set in regarding the two new ordinances approved by City Council: 1. The one-year mandatory written lease and renewal offer: already written, approved, and made into ordinance; 2. Just Cause: to be written and discussed in the near future.

At a special Member Meeting 8:45 a.m. June 20th, 2019, City Attorney Ariel Calonne, newly-appointed Assistant City Prosecutor Denny Wei and SBRPA Board Member Betty Jeppesen, Esquire will be available to discuss member questions such as the following:

### ***What is the Mandatory lease effective date?***

June 9, 2019

***What does it mean?*** All property providers of multi-unit properties (some exceptions apply) must offer a one-year written lease to all new tenants.

***What if the renter does not want a year term?*** Then you must get the rejection in writing showing you made the offer pursuant to the ordinance.

***What about my month-to-month tenants?*** You must make the one-year offer to them, too, but you have until September 19, 2019 to provide the new lease term offer.

## **Thursday, June 20, 2019**

Coffee 8:45 am • Program: 9:00-10:15 am

### **SBAOR Meeting Room**

1415 Chapala Street, Santa Barbara

Parking in City Lot 5, Chapala & West Victoria

**SEATING LIMITED.** You Must RSVP to Attend.

No Walk-ins Allowed

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*Betty Jeppesen*

## CalRHA Weekly Telephone Calls

Dear Members of SBRPA,

I would like to alert you to yet another way that SBRPA is working hard on your behalf. That is, to be on weekly telephone calls with CalRHA and other housing provider organizations throughout the state along with lobbyist, Kate Bell, whose firm, Capitol Advocacy, helps keep track of state-wide legislation concerning residential rental property.

There are some very scary Assembly Bills in line right now. For example, there were two "Just Cause" Assembly Bills being heard at the Assembly level, AB 1481 (Bonta) and AB 1697 (Grayson). Fortunately, the Grayson Bill has become a two-year bill which leaves only the Bonta Bill to oppose with respect to just cause. AB1481 would, with certain exceptions, prohibit a lessor of residential rental property from terminating the lease without just cause, as defined, stated in the written notice to terminate.

Another Assembly Bill to oppose is Chiu's AB1482. This AB would prohibit an owner of residential rental property from increasing the rental rate for that property in an amount that is greater than 5% plus the percentage change in the cost of living (CPI), as defined, more than the lowest rental rate in effect for the immediately preceding 12 months, subject to specified conditions. The AB would exempt from these provisions deed-restricted affordable housing, dormitories, and housing subject to a local ordinance that imposes a more restrictive rent increase cap than these provisions.

The committee working on your behalf has been opposing this AB and will, if necessary, at least try to negotiate less onerous requirements such as 7% plus the CPI. Incidentally, there are many nuances to consider such as state-wide CPI or regional CPI. It makes a big difference.

Relocation costs are also a topic of discussion for renters. Whether "means testing" would be allowed is not yet clear. Proponents are arguing that renters who have low or median incomes are entitled to relocation costs. Relocation costs are included in several of the Assembly Bills and can be a heavy hit on the landlords. One tenant in San Francisco received over \$50,000.00 in relocation costs.

*Betty L. Jeppesen,  
Co-Chair of the Government Relations Committee  
and 2nd Vice-President of SBRPA*

# CalRHA FACT SHEET

## Just Cause Eviction: Harms Tenants, Discourages Housing Growth No on AB 1481 (Bonta)

### Current Eviction Process is Lengthy & Harms Good Tenants

The state's current eviction process does not favor law-abiding tenants or their rental property owners. Tenants who do not pay rent or break the rules can force a long and expensive eviction process. Rental property owners pay tens of thousands of dollars in court costs and attorneys fees to complete an eviction. Small property owners are rarely in a position to shoulder these costs. There is nothing "just" about Just Cause Eviction laws for many of our state's rental housing providers.

The number one reason for a tenant eviction is non-payment of rent and occurs in more than 70% of cases. The remainder are typically due to breach of the lease agreement.

Depending on a tenant's response to a legal notice for non-payment of rent/breach of lease, it's a path for the owner that often includes delays, government agency red tape and the increasing cost of legal fees. Since the State's current default is to favor the tenant in the eviction process, too often rental housing providers must repeat the court process more than once, which only adds to the legal costs and extends the time their law-abiding tenants live with a harmful neighbor.

When eviction laws become costlier and more difficult for rental housing providers, the results can be devastating and make the housing crisis far worse. Rental housing providers will become less likely to lease units or will insist upon higher credit scores and income levels, shutting out certain tenants.

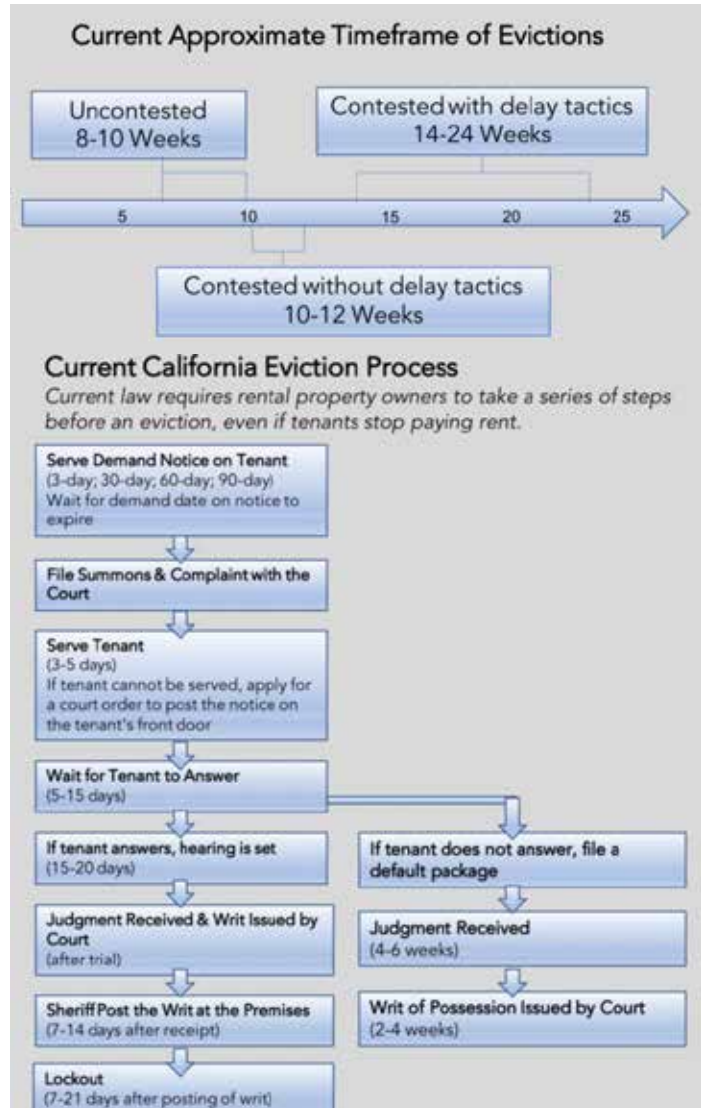
### What's at Stake with AB 1481

Local just cause eviction laws never benefit law-abiding renters, nor help with the housing shortage. In fact, these laws have only served to harm law-abiding renters and disturb the peaceful enjoyment of their homes, sometimes even causing them to relocate.

### Unfair and Harmful to Law-Abiding Tenants

Tenants who have been evicted for non-payment, breached rental agreements, create nuisances or engage in criminal activity that can attract violence at the rental property, only negatively impact law-abiding neighboring renters often or even place them in harms-way. **As a result, law-abiding renters are left in the position of having to live with difficult neighbors, creating a hostile community. This is a violation of law-abiding renters' rights.**

In addition, valuable resources and time must be spent enforcing violations by a renter that refuses to comply with the rules agreed and being abided upon by all other renters.



### Discourages Innovative Housing Solutions

There are innovative new housing arrangements and options being introduced and used in this state to address middle class housing needs. For example, new co-living housing is being tested and launched that innovates the traditional single-resident occupancy (SRO) unit and create affordable housing for young professionals, teachers, and others. They are testing new housing environments with shared kitchens and open space to create community connections as well as affordable spaces.

It is imperative that these community living spaces are safe for tenants. The first step in creating a safe environment is to streamline the eviction process for unlawful renters engaged in crimes that could involve drug dealing or gang activity. For example, one rental home provider battled with eviction hurdles for six months to remove a tenant conducting a drug ring on the property, forcing neighbors to live beside a dangerous individual because the owner's hands were tied. **With laws such as just cause evictions, new solutions to housing could be stifled as the costs for eviction of a bad actor become too expensive and lengthy disrupting the other tenants' living on the property.**

### Amplifies the Housing Shortage

Just cause eviction laws operate in 17 cities across the state. These policies have not increased or encouraged more housing development or rental properties, let alone affordable rental housing.

**In San Francisco alone, there are currently 30,000 vacant rental properties and 33,000 in Los Angeles on any given day.** The just cause eviction policy does not help to encourage these properties to become available to new tenants -- leaving them vacant. This one-size-fits-all approach does not consider the number of reasons why a rental property owner may be forced to evict a tenant or the impact it has on the other tenants.

### We Need to Reject AB 1481; Support Solutions That Increase Housing Supply

We need laws that increase housing supply, not laws that discourage it. If AB 1481 passes, the state will surely risk the sudden cancellation of current, planned rental housing construction expected to provide thousands of jobs and housing relief.

**When rental housing providers encounter residents violating lease agreements, the process to remove the renters can be expensive and lengthy.** Additionally, the jury trial process can cost an average of \$35,000 or more in addition to costs of lost rent and rehabilitation of the vacant unit, derailing developers from investing in rental housing and keeping entrepreneurs from starting a business in rental housing.

Rent control and "just cause" eviction laws have a history of failing and have never been proven to help with increasing housing supply over time. To get affordable and accessible housing solutions in California, we must invest in a holistic solution that considers the impact on the housing crisis, law-abiding tenants, and rental home providers.

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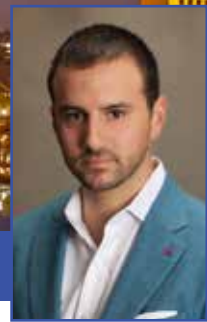
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# Sacramento Report



Steve Carlson



Jonathan Arambel

The phrase "lather, rinse, repeat" came to mind when in May the Senate Appropriations Committee killed SB 50 by Sen. Scott Wiener. SB 50 would have prohibited many cities from banning small apartment buildings around public transit. This is the 3rd year a push to increase housing units in California has failed to pass the legislature that claims to want to address the housing crisis.

Also last month, the Department of Finance reported that California added just 77,000 houses, condos and apartments in 2018. In 2017, it was just over 85,000 and in 2016 it was just under 90,000. How many units does the state need to build every year? Governor Newsom's campaign goal was to add more than 3 million units by 2025 - or roughly 500,000 units per year. Other, less aggressive, reports say half that amount. It's clear we are going in the wrong direction.

SB 50 would not have solved the housing crisis. The likely effect would have been watered down throughout the legislative process, but it would have been a step in the right direction. We have no doubt that Sen. Wiener will be back trying it again next year.

On the opposite end, this year continued a trend of an attack on housing providers. The most aggressive, AB 1482, is a statewide rent control measure by San Francisco Assemblymember David Chiu. Supporters call it a "rent gouging" bill because it caps rent increases by 5% plus CPI. We believe if you are telling every housing provider in California what they can charge for rent, it's rent control. For those of you that have been in rent control cities long enough, you will also know that while it may start at 5% - it goes down from there. With the embarrassing defeat of Prop 10, it should have been clear that an overwhelming majority of Californians agree with over 90% of economists that rent control is a bad policy. Yet, here we are again.

The one bill that can actually claim it will help tenants immediately is SB 248 by Sen. Steve

Glazer. His bill would expand the renters tax credit. Another topic that seems to die every year despite its immediate positive impact. There may be some reasons for cautious optimism this year. While it passed the Appropriations Committee, where it normally is held, they specified it would be a budget bill that determines the operative year and amount.

By the time this article is published we will have been battling rent control, just cause, mandatory section 8, rent strikes, Ellis Act, and many more issues that will make it harder and less attractive to be a housing provider. One thing is certain, even when we are successful, the same ideas will be brought back in January for another attempt. It's as predictable as a one-horse race. Lather, rinse, repeat.

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North County

# Santa Maria FAIRHOUSING SEMINAR

Review of Laws & Best Practices for Fair Housing Compliance and Success



The North County Seminar will be co-sponsored by Santa Barbara County, the Legal Aid Foundation, and SBRPA,

Guest Lecturer will be Chandra Carr from the Legal Aid Foundation of Santa Barbara County.

### LEARN & REVIEW

- Protected Classes
- History of Fair Housing: How we got here
- Fair Housing Laws: Federal, State and Local
- Best Practices for Compliance: Advertising; Leasing; House Rules; Maintenance
- Most Common reasonable accommodations and modifications for disabilities
- General Q&A with an Attorney

"The information provided at this seminar does not, and is not intended to, constitute legal advice; instead, all information, content, and materials are for general informational purposes only."

## New Date & Location!

**NORTH COUNTY: June 4, 2019 ~ 10:00AM-12:00PM**

**Location: Radisson Santa Maria, 3455 Skyway Dr., Santa Maria**



Please RSVP to [programs@sbrpa.org](mailto:programs@sbrpa.org)

No charge for this seminar. Our thanks to the County of Santa Barbara & the Legal Aid Foundation for sponsoring the cost.

# Santa Barbara FAIRHOUSING Seminar

Monday, April 29, 2019

In April, SBRPA was fortunate to have Fair Housing trainer extraordinaire Denise Cato of the Orange County Fair Housing Council give a 3-hour presentation on federal and state Fair Housing laws and their implications for rental housing property providers and managers. Drawing from her lengthy experience investigating and addressing Fair Housing violations and fielding endless questions from both renters and housing providers, Ms. Cato held the packed house rapt as

she discussed Fair Housing requirements, challenges, violations, penalties for violations, and the importance of knowing and following all Fair Housing laws. All those fortunate to have participated in the training at the Association of Realtors received a certificate of completion at the end of the morning.



*Front row participants smiled with appreciation upon receiving their certificates of completion for the Fair Housing program in April.*



*Fair Housing Trainer extraordinaire Denise Cato gave a lively and engaging presentation on Fair Housing laws and trends to a packed room at SBRPA's annual training in April.*



*Both owners and managers and their staff attended the April Fair Housing program held at the Santa Barbara Association of Realtors.*

Join SBRPA Board Members at

# Old Santa Ynez Day

Saturday, June 8, 2019 • 11:00am - 4:00pm  
3557 Sagunto St, Santa Ynez, CA 93460



*Live music, hometown parade, tortilla toss, equestrian groups, tractors, arts & crafts, good food and vendor booths are all part of the annual Old Santa Ynez Day.*



*Photos: Santa Ynez Valley Press*

Come join SBPRA Board Members and the Executive Director at their booth, to discuss your questions about the current local and state legislation that is going to impact your business.

Santa Ynez Old Days Celebration is sponsored by the Santa Ynez Elks Lodge #2640. Vendors will line the streets of Sagunto, lots of activities for the kids, shops and restaurants will be open, take a walk and explore the entire town. The famous small town parade begins at 11:00. A great day to visit the Township of Santa Ynez.

# SBRPA Strategic Planning Session



Anna and Chris Agnoli



SBRPA's Board of Directors met for a strategic planning session to forge the future of the association with NAA facilitator Michael Fazio on May 10, 2019.

SBRPA gives a heartfelt thanks to Anna Agnoli and her son, Chris Agnoli of Sun Coast Real Estate, for their generous hosting of the SBRPA Board Retreat at La Cumbre Country Club.



SBRPA's Board of Directors. Front Row, L to R: Danielle Holzer-Burkitt, Michelle Roberson, Harold Goodman, Chris Agnoli; Back Row, L to R: Jim Carrillo, Executive Director Laura Bode, Janet Eastman, Charles Eckert, Steve Battaglia, club member hostess Anna Agnoli, Michael Fazio, and Betty Jeppesen.

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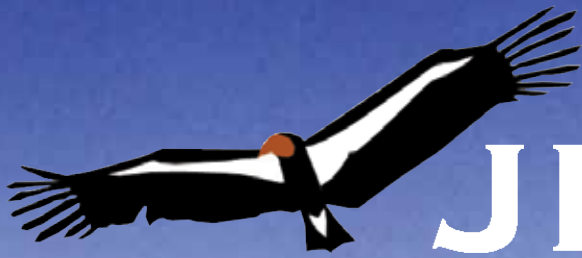
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# The Attorney's Corner

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## TERMINATION OF TENANCIES

Recent landlord/tenant litigation handled by our office has made clear that many property owners do not have a clear picture or understanding of which notices to use under which circumstances when termination of tenancy is being considered.

As a preface to this review of these different notice types, when it comes time to serve, legal ramifications of serving the notice should be reviewed with your counsel because the law is changing as are local ordinances with the City of Santa Barbara (e.g., Just Cause Evictions and Mandatory One Year Leases, which are currently being drafted by the City Attorney's Office).

It is easier to direct the litigation process at its inception (the decision to serve a notice) than after the notice has been served. If the wrong notice, improper form, or notice content deficiencies compromise the action, you would have to start the process over and could face counter-claims of retaliatory eviction and emotional distress, to name just two.

### TERMINATION NOTICES

#### 1. Termination of Tenancy by Three-Day Notice to Quit

Under California Code of Civil Procedure ("CCP") section 1161, subdivision (4), a landlord can terminate any tenancy, whether it be fixed-term or month-to-month, by a Three-Day Notice to Quit the leased premises. The grounds for serving a Three-Day Notice to Quit include the following:

- assigning or subletting an interest in the leased premises contrary to the conditions or terms of the rental agreement;
- committing waste on the leased premises contrary to the conditions or terms of the rental agreement;
- maintaining, committing, or permitting the maintenance or commission of a nuisance on the leased premises; or

- using the premises for an unlawful purpose.

The above-listed tenant conduct is grounds for a Three-Day Notice to Quit since such conduct is considered to be incurable. Whether a tenant's conduct constitutes grounds for termination under a Three-Day Notice to Quit is fact-driven and must be proven at the time of trial in an eviction action (assuming the eviction action goes to trial).

For example, if a Three-Day Notice to Quit is served, and an unlawful detainer action is prosecuted based on a landlord's contention that a tenant has committed waste on the leased premises, the landlord must be prepared to prove at trial with specific facts that the conduct of the tenant leading to service of the Three-Day Notice to Quit and termination of the tenancy meets the legal standard of "waste." Proof means having written warnings, witness complaints, and a list of witnesses to support the allegations of wrongdoing.

#### 2. Termination of Tenancy by Thirty-Day vs. Sixty-Day Notice of Termination

As a preliminary matter, terminating a tenancy by a Thirty-Day or Sixty-Day Notice of Termination applies to periodic tenancies – e.g., month-to-month tenancies – and does not apply to fixed-term tenancies. Thus, a landlord cannot terminate a one-year fixed-term lease by a Thirty-Day Notice of Termination. However, if the one-year fixed-term lease period ends, and the tenant holds over with the landlord's consent, thereby creating a month-to-month tenancy on the same terms as stated in the lease, then the landlord can, after consideration of reasons for termination, thereafter terminate the tenancy with a Sixty-Day Notice of Termination. Depending on circumstances, such as prior complaints on habitability or tenant claims of rights being violated, the termination notice may have to state a reason for termination. Under these kinds of circumstances, failure to state the reason may be fatal to the notice and invalidate the eviction action. Again, failure of the notice to properly comply with code requirements can lead to counter-claims by the tenant.

When choosing between a Thirty-Day or Sixty-Day notice, you must consider California Civil Code

*Continued on page 27*



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("CC") section 1946.1, subdivision (b), which dictates the length of the notice required. A landlord is required to give a tenant at least sixty (60) days' notice to terminate a periodic tenancy which has lasted for a year or more. Under CC § 1946.1, subd. (c), if a tenant or resident has resided in the leased premises for less than one year, a landlord is only required to give at least thirty (30) days' notice to terminate the tenancy.

As mentioned above, the City of Santa Barbara is in the process of drafting ordinances such as a Mandatory Lease Ordinance, which would require landlords to offer residential tenants a one-year lease. One-year leases are fixed term leases that cannot be terminated pursuant to a Thirty-Day or Sixty-Day Termination Notice. Thus, it is important to be aware of the development of this ordinance, and whether you have rental properties in the City of Santa Barbara that may be affected. It is always advisable to discuss the status and applicability of ordinances with your legal counsel.

### 3. Termination of Section 8 Tenancy

Under Title 42 of United States Code Annotated ("42 U.S.C.A."), section 1437f, subdivision (d), a Section 8 tenancy can only be terminated on the following grounds: (i) serious or repeated violation of the terms and conditions of the lease, (ii) violation of applicable Federal, State, or local law, or (iii) other good cause. The "other good cause" ground for termination of Section 8 tenancies is intentionally left as a broad and open-ended standard so that a landlord is not limited to specific grounds for terminating a problem tenant, and so that a court can determine "good cause" termination on a case-by-case basis. However, 42 U.S.C.A. § 1437f, subd. (d), goes on to provide that good cause includes the following:

any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants;

any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or

any drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control.

A landlord can terminate a Section 8 tenancy on three (3) days' notice to terminate under CC § 1161 if the requirements of said section and 42 U.S.C.A. § 1437f, subd. (d), are met. For example, if a Section 8 tenant fails to pay its share of

the rent due for a certain month, such a failure to pay rent would be grounds for a Three-Day Notice to Pay Rent or Quit under CC § 1161, subd. (2), and would be grounds for termination under 42 U.S.C.A. § 1437f as a serious violation of the terms of the lease.

If a landlord is going to terminate a Section 8 tenancy, he or she needs to confirm with counsel the appropriate notice to use and make sure that notice is given not just to the tenant, but also to the Housing Authority administering the governmental program. Under CC § 1954.535, the landlord may be required to give the tenant at least ninety (90) days' notice to terminate the tenancy. Again, notices must be served on both the tenant and the public housing authority with whom the owner has contracted to receive housing assistance payments on behalf of the tenant.

As always, it is important to seek independent legal counsel as to your specific objectives and circumstances. If you have questions on these topics and/or need legal advice on these subjects, please call (805) 963-9721 or email David Grokenberger at David@rogerssheffield.com; Michael Brelje at Mike@rogerssheffield.com, or Scott Soulages at ssoulages@rogerssheffield.com.

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**NOW FOR SALE (New!) 4 Units in Goleta Multi-Family Area \$1,650,000**

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# Santa Barbara Happenings

Terry A. Bartlett • *Reetz, Fox & Bartlett LLP*



## **Santa Barbara City Council Adopts One-Year Minimum Lease Term Offer Ordinance And Instructs City Attorney To Draft A “Just Cause” For Eviction Ordinance**

The Santa Barbara City Council adopted the mandatory minimum one-year lease term offer ordinance, Chapter 26.40 of the Santa Barbara Municipal Code (“Ordinance”). The Ordinance, subject to some limited exceptions, will require Santa Barbara multi-family property owners to offer all residential tenants a written lease with a minimum term of one year.

Non-compliance is a defense to an action to recover possession. This can be a significant consequence and will make problem tenants more difficult to evict.

The Ordinance will become effective June 7, 2019. For tenancies not under an existing written lease, there is an additional 90-day period for property owners to offer written leases. Otherwise, property owners are required to offer a written lease once the lease term ends or an existing lease expires.

The City Attorney will be releasing forms relating to the Ordinance, which will be available through the City’s website: <https://www.santabarbaraca.gov>

Property owners should make sure they understand what is required for compliance with the Ordinance and should contact their legal counsel if they are unclear.

In a separate action (prior to adopting the Ordinance) the Council instructed the City Attorney to begin drafting a just cause for eviction ordinance. This process will take at least a few months. Property owners should pay close attention to this process and make their voice heard. Doing so may lessen the negative consequences of the just cause for eviction ordinance, which (barring a miracle) will eventually become law.

### **Homelessness In Santa Barbara**

Last April, the Santa Barbara City Council addressed the issue of homelessness in Santa Barbara. This

time, the Council discussed the details of how it would be using the funds that it received through the State of California’s Homeless Emergency Aid Program (“HEAP”).

The Council has devised a plan to focus the majority of its resources on the 50 homeless people that currently consume the most emergency services.

The plan requires a partnership between City Net (a non-profit organization), the Housing Authority, City Fire Department, and People Assisting The Homeless (“PATH”). This is the first time these organizations will all be working together. In aid of this effort, Cottage Hospital will be providing a registered nurse to check in with homeless people on the street.

Homelessness in Santa Barbara is not a new problem; however, with the decline of State Street, this problem has been magnified. Currently, the Council estimates that the total costs caused by the homeless population is around \$5 million a year. This is five times the current \$1 million the City spends on fixing the problem of homelessness.

In addition to cost, homeless people are creating a public safety risk by congregating in places such as Santa Barbara libraries and parks. The City Attorney hinted that new prosecution and enforcement initiatives may be coming down the line. The initiatives would be aimed at alleviating nuisance crime. This would be a drastic step, but it may be what Santa Barbara needs in order to begin actually addressing the problem rather than simply throwing money at the issues caused by the problem.

In the meantime, the Council voted to support continuing efforts to rewrite the City’s liquor laws. It also voted in support of creating a new ordinance that would make grocery stores responsible for the safekeeping of their shopping carts. Will punishing stores that have their carts taken by the homeless

*Continued on page 31*

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really solve the problem? This appears to be the Council's solution.

### **550 Unit Apartment Development Project Proposed At La Cumbre Plaza**

Last month, the owners of the former Sears building at La Cumbre Plaza informed the Santa Barbara City Council of their desire to enter into a development agreement with the City. The development agreement would allow for the construction of 550 rental apartments on the 9.45-acre property where the former Sears building is located. It was made clear that the agreement would need to be done in a prompt manner. If not, the owners stated that they may forego the process and rent out the building as it currently is.

Holding up the prompt completion of the agreement, and potentially the project altogether, is the City's desire to design a specific plan for the whole La Cumbre Plaza area instead of a just the area for the proposed development.

Additionally, the Sears owners require the property to be processed under the City's Average Unit Density Incentive Program Ordinance (The "AUD" Ordinance). The AUD Ordinance carries out a key objective of the City's 2011 General Plan. According to the City of Santa Barbara's website, "[t]he intent of the Program is to support the construction of smaller, more affordable residential units near transit and within easy walking and biking distance to commercial services and parks." The AUD Ordinance is currently set to expire in July 2021.

Because the AUD Ordinance will not be around when the construction actually begins, the Sears owners need a development agreement that would allow them to proceed with the project knowing that the benefits of the AUD Ordinance (which include bonus density and fewer required parking spaces) would apply to the project.

Ultimately, members of the Council voted 6-1 to direct City Administrator Paul Casey and Community Development Director George Buell to pursue both a development agreement for the project and specific plan for the La Cumbre Plaza area.

### **Criminal Charges Filed for Improper Accessory Dwelling Unit Development**

Recently, the developer of two proposed accessory dwelling units (ADUs) on Arriba Way was criminally

charged for construction work related to the ADUs.

An ADU is a secondary dwelling unit (sometimes called a granny flat) that may have complete independent living facilities for one or more persons.

In 2016, California passed the ADU legislation (SB 1069) in hopes of boosting available affordable housing. The goal of the legislation is to limit the amount of red tape that local governments can impose on building small additional dwelling units on appropriately-zoned properties. To that end, State law requires that the ADU approval process be over-the-counter and completed within six months of application submission.

The ADU concept appears to be working in Santa Barbara. Currently, there have been nearly 500 applications for ADU construction, and only a small number of those have been denied.

However, the City still has significant enforcement power when ADU developers do not follow the rules. Of the nearly 500 applications, over 30 are currently the subject of enforcement actions. The most severe are almost certainly the enforcement actions against the ADU developments in Mission Canyon on Arriba Way. In that situation, neighbors berated the City Council during public comment of the City Council meeting for several weeks straight, eventually leading to the City Council taking criminal action against the developer. The criminal action stemmed from the developer allegedly violating stop-work orders issued by a Santa Barbara judge and a city enforcement officer.

The City Attorney has hinted that more enforcement actions (and likely civil lawsuits) will be coming in the near future.

### **U.S. Congressional District Race Likely to Be Contested**

Michael Erin Woody (Republican) has declared his intention to explore running for the United States Congress seat currently held by Salud Carbajal (Democrat). Mr. Woody is a Civil Engineer by profession. Mr. Woody plans on using his real-world perspective to help solve serious infrastructure issues present on the Central Coast.

The seat District encompasses much of Santa Barbara and San Luis Obispo Counties and will be up for election in 2020.

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