

SANTA BARBARA RENTAL PROPERTY **news**

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Celebrating the Good Landlords of Santa Barbara County



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 Member Meeting, 9/13/2019..... page 17



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SANTA BARBARA RENTAL PROPERTY news



SANTA BARBARA AREA'S RESOURCE FOR RENTAL PROPERTY OWNERS, MANAGERS & SUPPLIERS

SBRPA OFFICE

Mon-Fri • 9am-5pm
Closed for lunch 12-1pm
123 West Padre Street, Suite D
Santa Barbara, CA 93105

www.sbrpa.org

Phone: (805) 687-7007
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CALENDAR

Labor Day

Tuesday, September 2 Office closed



SBRPA Dinner Meeting

Friday, September 13, 2019

Host Joyce Hulsebos

1118 Corto Camino Ontare, Santa Barbara, CA

Join us for a casual dinner & drinks at the beautiful hilltop home of Board Member Joyce Hulsebos. (see page 17 for more information)



Santa Barbara view from North Ontare Stree

SBRPA Annual Charity Golf Tournament

Friday, October 25, 2019

Glen Annie Golf Club, 405 Glen Annie Rd., Goleta, CA

Mark your calendars and Save the Date for our annual Charity Golf Tournament to benefit the Transition House.

Get your team together & register now!

- Registration (see page 11)
- Sponsorship Opportunities (see page 12)



Glen Annie Golf Club

2019 SEPTEMBER

SUN	MON	TUE	WED	THU	FRI	SAT
1	2 Ofc closed LABOR DAY	3	4	5	6	7
8	9	10	11	12	13 Dinner Mtg 5:30-8:00PM	14
15	16	17 Ofc closed 1PM BODMtg	18	19	20 Solvang Danish Days 9/20-9/22	21
22	23	24	25	26	27	28 Goleta Lemon Festival 9/28-9/29
29 Rosh Hashana	30	1	2	3	4	5

Other Santa Barbara County Events

83rd Solvang Danish Days, 9/20-9/21-2019

Come and enjoy the festivities at California's largest Danish festival. Free concerts, parades, contests, food, and artisans marketplace.



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SBRPA President's Message

James Carrillo • CPM®, SBRPA President



Over the last year, SBRPA members have been inundated with bad news, bad legislation, questionable decisions by local leaders, and blowback from the onerous bills making their way through the California Legislature. The impetus for this “demonizing the property owner” environment is the collective indifference and greed of a very small percentage of owners and managers, none of whom are members of this organization, as far as I know. Tragically, a small few have given our local legislators a broad brush with which to paint a great number of caring and well-meaning property owners and landlords, as “bad” for our community. The result is a rental market that is suffocated by ordinances that do very little to provide more housing for our community and actually stifle any thought of building much-needed new housing—and ultimately exacerbate the problem while doing nothing to solve it.

Sadly, this is what our City Council has done. Yet, they crow about how they are easing the housing crisis and how they are taking action to protect those who have the most need. There are no secrets here. All of this has been discussed, digested, chewed about and spit out for years. But our City Council doesn't seem to understand. If you want to ease the housing crisis, make it easier to build. Streamline the building process so a developer does not have to spend \$800,000 just to get something to the Planning Commission only to be told, you need to take this back to the Architectural Review Board. Look at property owned by the City and fast track housing on those parcels so we can actually INCREASE the number of housing units we are building in the City. And don't punish landlords or make it harder for them to do business.

In a parallel example of the City Council's myopic view and inability to be flexible and business friendly, they won't allow a local business—Institution Ale on State St—to install a sign on the INSIDE of their establishment because it does not comply with our City Code for exterior signage. Why not work with and support a business that brings vital tax dollars and is helping to revive a dying State St., about which the City is wringing its hands. Or why not change the code and be business friendly instead of business contrary? We ask these same questions with respect the Council's approach to the business of rental housing.

In many other communities, owners and landlords would lower their heads and walk away. They would

sell their properties to out-of-town investors whose goal is to buy, renovate, raise rents, sell and move on. However, in spite of all of Santa Barbara's anti-landlord legislation, the membership of SBRPA not only stands tall, it is leading by example. Over the last year we have had many, many members come through, become engaged, and help lead the battles we are fighting on many fronts. We salute you and we thank you. You make our organization a model of commitment and loyalty. That is why this issue of our magazine celebrates, “*The Good Landlords of Santa Barbara.*”

Many members have found value in the meetings and town halls that have recently been presented by SBRPA. We see this as part of our responsibility to you. In addition to these meetings, the educational resources and legal forms we offer advance our commitment to our members and our industry. We present these services on the budget that is increasingly insufficient each fiscal year, along with income from programs and the golf tournament, which is also a charity benefit. When compared with the minimal annual dues for our regular membership, the value of our services exceeds our financial ability to remain consistent in our offerings. Like any other non-profit organization, we continually look for new sources of income. While this topic has not typically been broached in the past, we find that it is necessary to bring it forward now. Our industry will only become more complex and litigious. Your additional contribution to SBRPA today will do much to help us continue our offerings and resources on which you have come to rely. A \$100 contribution to SBRPA at this time will help us continue to offer you value and to fight on your behalf at the local and state level. Please consider making this—or any—additional contribution to SBRPA this year.

Finally, thanks to the generosity of board member Joyce Hulsebos, SBRPA will host a meet and greet with the candidates for City Council on September 13, 2019, from 5:30 pm to 8:30 pm at her beautiful residence. This will be an excellent opportunity to meet and converse with several candidates for City Council in the November election. Food and drinks are included with for the modest \$25 fee to attend. Please call Michelle Roberson at (805) 692-1620 or email Michelle@sierrapropsb.com to RSVP and be included in the guest list for this exciting event.



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1st Vice President & Director, Janet M. Eastman, CPM®
2nd Vice President & Director, Betty L. Jeppesen, Esq.
Secretary, Charles V. Eckert III
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MISSION STATEMENT

We are the go-to organization for our members, suppliers, and the rental housing community.

Santa Barbara Rental Property Association **CODE OF ETHICS**

We, the members of the Santa Barbara Rental Property Association, recognize our duty to the public and to those individuals who choose to reside in rental housing. Being ever mindful of the increasing role of the rental housing industry in providing homes, we have united ourselves for the purpose of improving the services and conditions of the rental housing industry. Therefore, we adopt this Code of Ethics as our guide in dealing with all people.

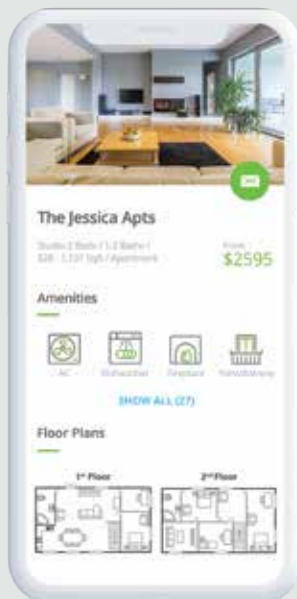
- We conduct ourselves in an honest and ethical manner at all times to better the communities of which we are a part.
- We comply with all laws and regulations applicable to the rental housing industry.
- We respect the rights and responsibilities of our residents and diligently respond to their requests.
- We believe that every resident is entitled to the quiet enjoyment of a safe and habitable residence.
- We strive to conserve natural resources and to preserve the environment.
- We believe in the value of contracts and their enforcement.
- We believe in the importance of continuing education for rental housing owners, managers, and residents.
- We maintain an equitable and cooperative relationship among the members of this association and with all others who may become a part of this industry in order to further the interest of all members of this association.

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Golfer #2 _____ Golfer #4 _____

(For multiple foursomes, attach separate sheet)

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Santa Barbara Rental Property Association's 2019 Fall Charity Golf Tournament Sponsorship Opportunities

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- Logo on the SBRPA banner
- 1/2 page ad in Program
- Tee sign
- Verbal recognition during Reception

Feed the Hungry Mob \$2,000

- Logo on box lunches
- Meet & Greet the hungry golfers!
- Golf foursome & Dinner for four
- Skirted table

~~Mulligan Package & Drink Cart \$2,000~~

- Registration signage and tee sign
- One Foursome package
- Four banquet dinners



Attended Tee Box Package \$1,250

- Attended Tee Box -- Meet & Greet all the golfers!
- One Foursome package
- Four banquet dinners
- Recognition in promotional materials

~~Cigar Cart Sponsor \$3,500~~ sold

- Sponsor the most popular cart on the course with your private label cigars for the golfers



Cart Sponsor \$1,250

- Exclusive signage on every cart

~~Putting Contest \$1,500~~ sold

- Signage



Attended Tee Box \$750 each

- One golfer, one banquet dinner
- Skirted table -- Meet & Greet all the Golfers!
- Recognition in promotional materials

~~Closest to Pin \$500~~ sold

- Signage





CalRHA
July 27, 2019

Legislative Update

AB 1482 (Rent Control) and AB 1481 (Just Cause)

The Legislature adjourned for a month-long summer recess on July 11th. Two days prior to adjournment, **AB 1482** - Assemblyman David Chiu's rent control bill - passed out of the Senate Judiciary Committee on a 6-1 vote (Democratic Senator Tom Umberg abstained from voting on the bill and Republican Senator Andreas Borgeas was absent. Republican Senator Brian Jones was the "no" vote). CalRHA testified in opposition, arguing for preemption/a constitutional amendment, expanding the exemption to include units, increasing the 10-year rolling exemption for new construction, and means testing. The California Apartment Association also testified in opposition, and the California Association of Realtors and others lined up to register opposition well.



Assemblyman David Chiu

Before the Judiciary Committee hearing, **AB 1482** was amended in June to contain the following components:

- Rent cap of CPI+7%, or 10%, whichever is lower
- *Just Cause* to apply to tenancies after 12 months
- Relocation assistance for no-fault evictions for 1 month monthly rent
- Landlords would have to provide notice of just-cause rights to tenants at beginning of tenancy via an addendum to the lease
- Language clarifying the causes for eviction
- Exemption for 10 or fewer single family residences
- 2023 sunset.



Despite the defeat of the Just Cause bill **AB 1481** in May, **AB 1482** was amended to require Just Cause for evictions. The California Association of Realtors agreed to go neutral on **AB 1482** in May with the inclusion of a rent cap of CPI+7% and a 2023 sunset, among other provisions, but CAR did not agree to the Just Cause language and is therefore once again opposed to **AB 1482**. CalRHA also remains opposed.

Amendments were also taken to **AB 1482** in Senate Judiciary Committee that could raise additional issues, however there was one positive clarification that if between March 15, 2019 and January 1, 2020, a landlord has raised or does raise the rent beyond what would be allowed under the bill, the applicable rent on January 1, 2020 will be the rental rate as of March 15, 2019 plus the maximum permissible rent increase under the bill (CPI + 7%). **AB 1482** will now go to Senate Appropriations Committee, where it will be heard in August. CalRHA met with the Governor's Office the day after the Judiciary Committee hearing and continues outreach with Leadership and key legislators on our issues with the bill.

Just prior to the Senate Judiciary Committee hearing of **AB 1482**, The Turner Center for Housing Innovation at UC Berkeley released a report on **AB 1482** and how it would impact 10 specific communities in the state. The report states that **AB 1482** would expand rental price protections to millions of households and that, over the past five years, in all but one of the communities it studied, there was at least one instance where median rents increased 10% or more year over year. However, median rent increases overall in these communities was less than 5%. The communities studied included Vallejo, the Mission District and Potrero Hill in San Francisco, Long Beach, and Oakland, among others. The report concludes that if **AB 1482** advances, its proponents should address two main concerns: whether a rent cap could hurt housing production, and whether it would unintentionally cause steeper increases than what occur in the current market.

SB 248 (Renters' Tax Credit) and SB 521 (Section 8 Incentives)

Beyond rent control, two bills CalRHA is supporting passed out of Assembly Revenue & Taxation Committee in July - SB 248 (Glazer) and SB 521 (Portantino). SB 248 creates a renters' tax credit and SB 521 provides incentives for landlords to rent to Section 8 recipients. Both bills now go to Assembly Appropriations Committee.



Senator Holly Mitchell

SB 329

SB 329, the bill by Senator Holly Mitchell that would require owners of rental properties to accept all federal, state, and local public assistance subsidies, was placed on the Suspense file in Assembly Appropriations Committee, which is where bills go that are deemed to have a substantial fiscal impact on the state. CalRHA is requesting amendments consistent with Senator Mitchell's comments that her goal with the bill is to prevent property owners from advertising that they won't accept Section 8, but that the bill doesn't mandate that the property owner enter into contract with Section 8 applicants and that they would be free to choose a non-section 8 applicant.

2019-20 California State Budget

On the fiscal front, the Governor signed the 2019-20 California State Budget on June 27th. The Budget includes \$2 billion dollars for housing and homelessness. In signing the budget, Governor Newsom stated that housing costs are a "defining quality-of-life concern for people across California" and that the budget "makes a historic investment to accelerate the production of new housing, and supports local governments to meet their required housing goals." Those investments include:



- \$1.75 billion for new housing production and planning, including support to local governments for production
- Local government accountability measures to meet housing demand
- \$20 million for legal aid for renters to assist with landlord-tenant disputes, including legal assistance for counseling, renter education programs, and preventing evictions.



Senator Scott Wiener

Senator Jim Beall is urging the Governor to convene a special session on the housing crisis. Senator Scott Wiener, the author of **SB 50** (which sought to increase housing near jobs and public transit), stated he would support a special session as well and believes zoning and other land use issues must be tackled. He could potentially reintroduce **SB 50** in a special session, but said he will pursue it in January absent an extraordinary session.

At the statewide level, State Controller Betty Yee released a report on June 18th urging the Legislature to adopt a comprehensive housing package this session focused on meaningful reform, including significant increases in zoning capacity. Specifically, the Controller recommends that the package be comprised of the following components

- Expanded zoning capacity - could be achieved through bills like SB 50, which Yee believes takes an "equitable" approach to zoning and should be the "cornerstone" of the housing package
- Statewide housing standards - recommends universal housing goals for the state as well as regulatory and fiscal incentives to reward jurisdictions that see housing growth; also urges the state to limit forces that prevent development, including NIMBY lawsuits and excessive fees
- Tenant protections - could include rent stabilization, eviction protections, subsidies, and prohibiting source-of-income discrimination
- Dedicated funding - the state should prioritize housing via funding through the state budget and ongoing funding through the Low-Income Housing Tax Credit or the Multifamily Housing Program
- State housing coordination - recommends ensuring the state is making the right investments to boost production by evaluating the organization of the state's housing entities and improve processes to streamline distribution of state funds.
- Labor supply and building cost considerations - need to address the lack of labor supply via things like expanded apprenticeship programs for residential development.

Legislative Update (continued)

At the ballot level, Attorney General Xavier Becerra issued **Title and Summary** for the rent control initiative. Like Prop 10, it will read "Expands Local Governments' Authority to Enact Rent Control of Residential Property" on the ballot. It notes a potential loss of tens of millions of dollars annually in local and state revenue. Now that **Title and Summary** has been issued, the initiative is cleared for circulation. Michael Weinstein, the backer of the initiative, has stated that his preference is to work with the Legislature on passing a bill rather than going to the ballot again. However, he thinks the tenant protections in **AB 1482** don't go far enough. The initiative needs 623,212 valid signatures by April 1, 2020 in order to qualify for the November 2020 ballot. Weinstein can pull the initiative from the ballot as late as next June. We will have a better idea as to whether he pursues it when the outcome of **AB 1482** is final.



*Attorney General
Xavier Becerra*



*Michael Weinstein
AIDS Healthcare
Foundation President*

The Legislature will return to Sacramento on August 12th for the last month of session, which will conclude on September 13th.

Friday, October 25, 2019 2019 SBRPA Fall Classic

Get your teams together and register now!
Don't forget to sign up as a Hole Sponsor.
See page 12 for more info.

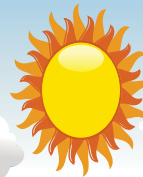


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Photo: Paul Wellman/SBIndependent

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- ✓ **ENCOURAGE OTHER OWNERS AND PROPERTY MANAGERS TO JOIN SBRPA!** If we want to be heard by City Council, we need to create a united voice that is as strong as the tenant group **CAUSE**. Tell everyone you know they can sign up for membership online on the www.sbrpa.org website.
- ✓ **VOTE** this November for reasonable people who will respect and listen to business people. . .
- ✓ **ATTEND THE SBRPA DINNER, 5:30 SEPTEMBER 13TH** AND TELL THE CITY COUNCIL MEMBERS & CANDIDATES YOUR THOUGHTS! RSVP: Michelle at michelle@sierrapropsb.com or (805) 692-1520

Questions about the new ordinance?

1. **Email City Attorney Ariel Calonne** (acalonne@santabarbaraca.gov)
If you wish to remain anonymous - send your questions to SBRPA and Laura will ask the City Attorney -- without identifying you.
2. **Copy the SBRPA Executive Director Laura Bode** laura@sbrpa.org
We will post questions and Mr. Calonne's responses on the SBRPA website's "Member Only" section — without identifying who asked the question.
3. **Copy your City Council representative.**



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Oscar Gutierrez,
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If you are unsure of your district, here is a link to the Santa Barbara City Council District map.
<https://santabarbarabar.maps.arcgis.com/apps/webappviewer/index.html?id=71f4bb397bd24bf7bcf8a80d6bf968ce>

The background of the entire page is a photograph of a hilltop at sunset. The sky is a warm, golden-orange color, and the silhouettes of people are visible in the foreground, looking out over the landscape. The top of the page is framed by the dark silhouettes of tree leaves.

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Red Alert: Member Information Update

Governor Newsom Extends Price-Gouging Ban in Areas Affected by States of Emergency (Including Santa Barbara) Limiting Rent Increases to 10%

In California, if the governor declares a State of Emergency in any county, there is a special protection against Price Gouging that immediately goes into effect. California Penal Code Section 396 prohibits price gouging on any necessary goods and services, and defines "price gouging" as any increase above 10%.



California Governor Gavin Newsom

Governor Gavin Newsom issued an executive order Friday, May 31, 2019, extending the state's prohibition against price gouging in several counties recovering from wildfires in 2017 and 2018. The original order was issued by Governor Jerry Brown, after the devastation caused by the 2017 North Bay and Northern California fires.

With the new order, controls on price increases on rents and a variety of supplies are extended until Dec. 31, 2019, in Napa, Mendocino, Santa Barbara, Shasta, and Sonoma counties.

How does the statute affect rental housing?

As with all other covered goods and services, following a declaration of emergency, the statute generally prohibits landlords from increasing the price of rental housing **by more than 10% of the previously charged or advertised price**. For rental housing that was not rented or advertised for rent prior to a declaration of emergency, **the price cannot exceed 160% of the fair market value of the rental housing as established by the U.S. Department of Housing and Urban Development**.

For rental housing advertised or rented on a daily basis, the daily price may not be increased by more than 10% following a declaration of emergency. For rental housing advertised or rented on a daily basis prior to a declaration of emergency but offered on a full-time or monthly basis following a declaration of emergency, the price may not exceed 160% of the fair market value of the rental housing as established by the U.S. Department of Housing and Urban Development.

A landlord may not justify an otherwise unlawful price increase by providing additional services such as gardening, cleaning, or utilities, or because they are now offering a shorter lease term. Similarly, a landlord may not charge more than the allowable price because an insurance company offered to pay a higher price. Make sure you are staying within these limits at least through the end of this year, and stay tuned for any possible additional extensions of the price gouging ban or more likely other legislation currently wending its way through the state legislature that aims to limit rent increases in the coming year.

Emergency declarations issued by the Governor are generally available on the Governor's website <https://www.gov.ca.gov/>. For information about local declarations of emergency, please contact your local city or county emergency authority or sheriff's office.

For FAQ's on Price Gouging, see State of California, Department of Justice website: <https://oag.ca.gov/consumers/pricegougingduringdisasters>, where rent increases are specifically covered at: https://oag.ca.gov/consumers/pricegougingduringdisasters?link_id=2&can_id=f73d8fab1bc22b5020158dc7e795c943&source=email-know-your-rights-advisory-rent-gouging-prohibited-by-ca-state-of-emergency&email_referrer=email_527630&email_subject=know-your-rights-advisory-rent-gouging-prohibited-by-ca-state-of-emergency#8C1



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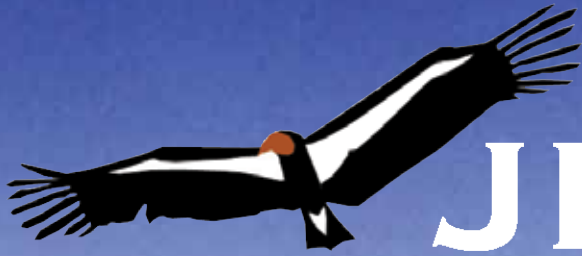
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UNLAWFUL DISCRIMINATION IN RENTAL HOUSING

The complex and ever-increasing web of federal, state and local anti-discrimination statutes provides important rights for tenants, but can be difficult for landlords to navigate. With so many potential pitfalls, even the most reasonable and prudent landlord must be wary of potential discrimination claims and lawsuits. Because discrimination is difficult to prove directly, claimants try to draw inferences from the conduct of even the most well-intentioned landlords and their agents to form the basis of a discrimination claim. It is important for local landlords to be familiar with discrimination laws, as Santa Barbara draws individuals from around the world due to its universities, tourism and culture, meaning landlords interact with tenants and prospective tenants from all races, backgrounds and nationalities.



A landlord cannot refuse to rent to a tenant, or engage in any other type of discrimination, on the basis of group characteristics (such as race or religion) that are not closely related to the landlord's business needs. Arbitrary discrimination on the basis of any personal characteristic is similarly prohibited. In fact, the California Legislature has declared that the opportunity to seek, obtain and hold housing without unlawful discrimination to be a civil right (Gov. Code, § 12921(b)).

Under California law, it is unlawful for a landlord, managing agent, real estate broker, or salesperson to discriminate against a person or harass a person because of the person's race, color, religion, sex (including pregnancy, childbirth or medical conditions related to them, as well as gender and

perception of gender), sexual orientation, marital status, national origin, ancestry, familial status, source of income, or disability (see Fair Employment and Housing Act, Gov. Code Section 12900 et seq; see also Federal Fair Housing Act, 42 United States Code Section 3601 et seq.). California law further prohibits discrimination based on a person's medical condition or mental or physical disability, or personal characteristics, such as a person's physical appearance or sexual orientation that are not related to the responsibilities of a tenant, a perception of a person's race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability or medical condition, or a perception that a person is associated with another person who may have any of these characteristics (Gov. Code, §§ 12955(m); Civ. Code, §§ 51, 51.2, 53; *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142).

Under California law, a landlord cannot use a financial or income standard for persons who want to live together and combine their incomes that is different from the landlord's standard for married persons who combine their incomes. In the case of a government rent subsidy, a landlord who is assessing a potential tenant's eligibility for a rental unit must use a financial or income standard that is based on the portion of rent that the tenant would pay (Gov. Code, § 12955(n)-(o)). A landlord cannot inquire as to the immigration status of the tenant or prospective tenant or require that a tenant or prospective tenant make any statement concerning his or her immigration or citizenship status, however, a landlord can request information or documents in order to verify an applicant's identity and financial qualifications (Civ. Code, § 1940.3; *Koebke v. Bernardo Heights Country Club* (2005) 36 Cal.4th 824).

Discriminatory acts include refusing to rent or lease, refusing to negotiate for rent or lease, representing that a unit is not available for rent despite it being available, denying reasonable accommodations and/or modifications, providing inferior housing terms, conditions, amenities, and/or privileges, and providing separated or segregated accommodations. Aggrieved prospective or actual

Continued on page 27

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tenants can file claims with state and federal fair housing authorities, and file lawsuits under the anti-discrimination statutes, which often come with provisions regarding civil penalties and recovery of attorney fees. For landlords with managers or employees that work on their behalf, it is important to develop policies and procedures to prevent these claims far in advance.

The City of Santa Barbara's Municipal Code also proscribes discrimination in rental housing. Santa Barbara Municipal Code section 26.30 makes it unlawful for a person to attempt or perform certain acts that are discriminatory based on a person's age, ancestry, color, disability, genetic information, medical condition, marital status, national origin, race, religion, sex, and sexual orientation. Such acts include: refusing to rent or lease a unit; refusing to negotiate for the rental or lease of a rental unit; otherwise deny to or withhold from any person or persons a rental unit; discriminate against any person in the terms, conditions, or privileges of the rental or lease of a rental unit, or in the provision of services, facilities or benefits in connection with the rental unit; refuse to show a rental unit; advertise in any manner which indicates any preferences, limitations or discrimination; require tenants to remain childless or otherwise limit families with children under 18 years of age; refuse to rent after making a bona fide offer, or refuse to negotiate for the rental of, or otherwise make unavailable or deny, rental unit to any person; charge additional rent for persons living in rental unit; discriminate by means of arbitrary income restrictions (refuse to rent to a person who can demonstrate, by prior rental history or by other means, that he or she is able to pay the required rent); or discriminate by means of arbitrary occupancy standards. This section does not apply to senior facilities, nursing homes, owner occupied units, subleases and government housing.

In addition, the federal Department of Housing and Urban Development ("HUD") provides guidelines regarding occupancy standards that may violate federal housing discrimination statutes. As state and local housing discrimination laws are generally based on federal laws, HUD guidelines are valuable. One example of a HUD guideline relates to occupancy limits. HUD warns that arbitrary occupancy limits, such as a policy that an apartment can only be occupied by one person, could violate against families with children. HUD recognizes that factors such as the size, condition and number of bedrooms and bathrooms will of course affect whether an occupancy limit is discriminatory or not, but it is important that an occupancy limit be justifiable. The California Department of Fair Housing has established a guideline of "2 persons per

bedroom, plus 1" as a reasonable occupancy limit. This might seem unusually crowded, as many 1- or 2-bedroom apartments are rented to only 1 or 2 persons, however it is not a hardline rule and only meant to provide an example of an occupancy limit that the state believes is reasonable. Moreover, an occupancy limit derived from a building code or health and safety regulation is not going to be considered discriminatory. The City of Santa Barbara's ordinance discussed above permits occupancy standards, but they must meet the following criteria: the standard is uniformly imposed on all comparably-sized rental units on the premises; it is conspicuously posted on the premises or contained in a written policy, rule or notice which is given to each tenant and prospective tenant; minor children (under the age of 16) are not counted in enforcing the occupancy standard; and it does not apply to infants (less than one year old).

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.

Last year, we drafted an article regarding some new developments in real estate law, including Assembly Bill 2343 which sought to revise time frames in unlawful detainer notices and proceedings. Pursuant to this bill, two important statutory revision took effect September 1, 2019. In this article, we will explain the changes to the law and how they fit into the unlawful detainer process.

Three-Day Notice as a Prerequisite to an Unlawful Detainer Action

Under California Code of Civil Procedure section 1161, there are multiple grounds for pursuing an unlawful detainer, which is an action to restore possession of real property. Some of these grounds, such as the tenant's failure to pay rent or comply with the lease, require the landlord to serve a 3-Day notice on the tenant so that the tenant has time to perform the required act or vacate the premises.

A proposal to amend Code of Civil Procedure section 1161 has been passed and takes effect September 1, 2019. The revised statute essentially give tenants who receive a 3-Day Notice to Pay Rent or Quit, or a 3-day Notice to Cure or Quit (Code of Civil Procedure section 1161, subdivisions (2) and (3)), additional time to perform the act called for in the notice (i.e. either pay rent, cure a breach, or vacate). The amended Code includes a

Red Alert: Member Information Update

Changes to the Time Periods for Three-Day Notices and Unlawful Detainer Answers (Effective September 1, 2019)

Thanks to the passage of **California Assembly Bill 2343** (Chiu) last year, effective September 1, 2019, the definition of the time periods for two important housing related notices has been extended, essentially granting recipients an extra 2-3 days to respond.

Three-Day Notices

The “three days” given to a resident to either (a) pay rent or quit or (b) cure a breach of the lease agreement or quit now excludes Saturdays, Sundays, and judicial holidays. Therefore, when counting the days from the time of service, be sure to only count non-holiday weekdays.

For example, formerly, if you served a resident with a Three-Day Notice to Pay Rent or Quit or Cure or Quit on a Friday, the 3-day period was Saturday, Sunday, Monday, and the resident had to pay/cure or quit by the end of the day on which the notice ended—Monday.

Now, a notice served on a Friday has to begin the 3-day count on Monday—so long as Monday is not a judicial holiday. If it is not, then the count is Monday, Tuesday, Wednesday, and the resident has until the end of the day on Wednesday to pay/cure or quit.

California Code of Civil Procedure, Section 1. 1161. Is amended to read “excluding Saturdays and Sundays and other judicial holidays” for a three-day notice to pay rent or quit.

Unlawful Detainer Answers

In a similar way, the bill extends the “5 days” in which a resident, upon whom a Summons and Complaint in and unlawful detainer legal action has been served, has to answer, by excluding weekends and holidays. So, when serving the Summons and Complaint, the 5-day response period has to start and end on a non-holiday weekday and exclude weekends and holidays in the count.



Assemblyman David Chiu (D-San Francisco)

Service of a Summons and Complaint on a Thursday before Labor Day would count the 5-day period in which an answer may be filed as Friday, Tuesday, Wednesday, Thursday, Friday—delaying the ability to file for a default judgement until the following Monday.

Sec. 2 Section 1167 of the Code of Civil Procedure is amended to read: 1167. (a) The summons shall be in the form specified in Section 412.20 except that when the defendant is served, the defendant' response shall be filed within five days, excluding Saturdays and Sundays and other judicial holidays, after the complaint is served upon him or her.”

Note: Notices of Termination of Tenancy (30/60/90-day) are not affected by this new law, nor is a Three-Day Notice to Quit in the case of an incurable breach of the lease for acts such as illegal use, unauthorized subletting, nuisance, or waste of the property.

Be sure to update your practices with respect to the service of notices to pay/cure or quit and make sure your attorney is aware of the extension to the 5-day answer period now granted to recipients of a complaint in an unlawful detainer action.

statement that the required three-day notice period excludes Saturdays, Sundays, and other judicial holidays; whereas the code as previously written counts weekends and holidays as part of the three-day period for paying rent or vacating. The effect of this change, for example, is that a 3-Day Notice to Pay Rent or Quit served on a Friday would now require rent payment or surrender by the end of Wednesday, while under the prior version of the statute it would be Monday.

This change is notable because an unlawful detainer complaint cannot be filed until after the notice and compliance period has expired. As most landlords faced with a problem tenant are focused on removing the tenant as fast as possible, it is critical to know when the complaint can be filed.

Upon review of the legislative history, it appears the revision arose out of a desire to address skyrocketing rents and increasing levels of homelessness. The legislature noted that California has the highest poverty rate in the country if housing costs are factored in. The goal of the revision is to preserve existing tenancies by giving tenants additional time to make rent or cure a lease violation, and to bolster tenants' due process rights. Tenant rights organizations and other nonprofits such as legal aid foundations emphasized the frustration that occurs when tenants simply do not have ample time to cure a violation, especially in situations under the former code where a 3-Day notice served on a Friday would expire at the end of Monday, thus leaving the tenant with one business day for compliance.

Time Period for Response to Unlawful Detainer Complaint

In addition, as of September 1, 2019 there is another change to the unlawful detainer statutes. Code of Civil Procedure section 1167 which establishes the period in which a defendant served with an unlawful detainer summons and complaint must file a response to the complaint. The prior version of section 1167 gave the defendant 5 days to reply to the complaint, including Saturdays, Sundays and judicial holidays. The new version provides for a 5-day response period which excludes judicial holidays as well as Saturdays and Sundays. Thus, defendants who are served with an unlawful detainer summons and complaint will have additional time to respond.

This change is important because if a defendant does not respond to an unlawful detainer complaint, the plaintiff can take the defendant's "default," which is basically an "automatic win." With only a 5-day response time, tenants often fail to respond to unlawful detainer complaints in the time period allowed, and thus defaults are common. With the revised statute now excluding weekends and judicial holi-

days from the 5-day response period, defendants served with such complaints will have more time to respond to unlawful detainer complaints.

Upon review of the legislative history regarding the response period extension, it appears the legislature made the revision to reflect the difficulties tenants have in locating legal assistance and preparing a defense to the unlawful detainer complaint. The legislature was concerned that tenants with legitimate defenses were being "defaulted" and automatically losing their cases simply because they did not have enough time to seek legal assistance. By excluding weekends and legal holidays from the response period the legislature has moved toward this goal, but it might not be finished, as the original authors of the bill sought even more drastic protections for tenants. In previous versions of AB 2343, the legislature tried to insert additional requirements to address the default problem, such as a three-day waiting period before a court clerk could enter a default against a defendant that did not respond to an unlawful detainer complaint. Whether these changes resurface in the future depends on the fortunes of the rental housing economy and changing political landscape.

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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Santa Barbara Happenings

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Expect A Revised Proposition 10 (Rent Control) on the 2020 Ballot

Despite voters rejecting Proposition 10 in 2018, proponents of rent control have developed a new initiative, called the "Rental Affordability Act" that would allow cities to reform as opposed to repeal (like Proposition 10) the Costa-Hawkins Rental Housing Act of 1995.

The Costa-Hawkins Rental Housing Act of 1995 currently provides much needed limitations on what Cities and Counties can impose in the way of rent control (i.e. government restrictions on what landlords can charge tenants).

Like Proposition 10, there are some significant issues with the proposed "Rental Affordability Act" that should alarm residential property owners. The most notable is that the measure calls for limited vacancy control. In areas where rent control exists, local governments would be able to limit the landlord's ability to bring their units to market rent rates after a tenant leaves. This means that if a tenant stays in a unit for 20 years and their rent is well below market, the landlord would be limited on how much they could charge a new tenant, even if the tenant would otherwise pay market rent.

Two other important issues include (1) eliminating the exemption for rent control on single family homes (where a landlord owns 3+ homes), and (2) allowing rent control to be imposed on homes 15 years old or older (as opposed 24 years or older (i.e. homes built after 1995) as is currently the case).

In the last campaign, opponents of Proposition 10 raised triple the amount of money that proponents did. This undoubtedly played a significant role in the successful opposition of Proposition 10. With the Secretary of State recently allowing supporters of the Rental Affordability Act to start collecting signatures, it is critical that residential property owners come together to combat this new initiative.

While rent control is not in Santa Barbara City or County yet (except in mobile home parks), it is very plausible that it will be (whether that is via

local government action or state action) in the near future.

Santa Barbara City Council Unanimously Approves 10 Percent Inclusionary Housing Ordinance

Santa Barbara City Council recently voted 7-0 in favor of a 10 percent inclusionary housing ordinance for high density projects.

This ordinance emerged after critics spoke out against the City's Average Unit Density Incentive Program Ordinance (The "AUD" Ordinance), approved in 2013. 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.

The AUD program gave developers the right to build additional rental units and was put in place with the hope of creating more affordable units. The city did not place any limits on how much developers could charge for rent.

Due to local regulatory constraints and a market starving for new units, the rents being charged by many of the projects approved under the AUD Ordinance are not "affordable" for residents earning at or near the median income.

As a result, the Santa Barbara City Council members initially proposed a 15 percent affordability requirement (for projects approved after the new ordinance went into effect), which lacked the necessary votes to pass. Once it was clear that the 15% affordability requirement did not have sufficient support, the council members compromised on a 10 percent inclusionary housing ordinance. This new ordinance places some limits on the rent that can be charged for 10 percent of the units created by a project. These limits will be

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the form of a rent cap. The rent-controlled units would be available for residents earning 80 to 120 percent of the County's median income.

With the makeup of current City Council, expect more regulation soon. In other words, if you want to build apartments in the City of Santa Barbara now is the time to do it (at least from a government regulation perspective).

Santa Barbara County Residents Want Amendments to Cannabis Ordinance

Like it or not, Santa Barbara County is quickly becoming one of the de facto centers for California's recreational marijuana cultivation. Despite only comprising 1.8% of the state's land, Santa Barbara County holds 35% of all cultivation licenses in California.

While local officials throughout the County say this growing industry will stimulate the economy, residents and farmers complain that the increasing number of marijuana crops are disrupting their daily lives. In July, the City of Goleta voted to send the County of Santa Barbara a letter demanding that changes be made to its cannabis ordinance.

Most complaints from residents stem from a lack of regulations for marijuana cultivators. In the past, Santa Barbara County supervisors voted not to limit the size of marijuana farms or the number of marijuana growers allowed in the area. In addition, local zoning for cannabis cultivators, which is typically enforced property line to property line, is done from property line to premise (i.e. where the physical location of the buildings is) in Santa Barbara County. This allows cannabis farms to be on land that it would normally be banned, such as next to schools. Teachers and parents have already complained about the odor drifting onto school grounds, interfering with the health of children.

Vintners, along with other business owners are concerned with how the odor will impact tourism rates and property values in the future.

Most residents in the Santa Barbara County are not asking for cannabis to be banned. Rather, they are lobbying for stricter regulations. Proposed changes to the ordinance include a mandatory odor-control system and a cap on the amount of cannabis that can be cultivated.

For now, the County is still divided on how to bring the Cannabis industry under control. What is clear is that some change is needed. Whether that change will come at the hands of the current Board of Supervisors is another question.

Initiative Repealing Zoning Information Reports Receives Support from Santa Barbara City Council

On July 16, 2019, the City Council unexpectedly decided to forego its staff's recommendation and instead take the first step toward adopting an initiative that would repeal the current Zoning Information Report ("ZIR") requirement imposed on home sellers in the City of Santa Barbara.



A ZIR is currently required for every transfer of residential property, aside from condos, located in the City of Santa Barbara. As the City's website states, the intended purpose of ZIRs is to provide information to possible buyers regarding the "zoning and permitted use of the property based on a physical site inspection and records research."

Two main issues regarding ZIRs include inconsistency and inaccuracy, both of which have resulted in harm to both home sellers and home buyers in the past.

These issues lead the real estate community to band together and collect thousands of signatures calling for the repeal of the Santa Barbara ordinances which currently require ZIRs. Because sufficient signatures were received, the City Council had a duty to hear the initiative and decide whether or not to place it on the ballot in November.

Over the recommendation of staff, the City Council voted 5-2 to put a proposal to eliminate ZIRs on the agenda for the following week's City Council meeting when formal adoption is expected.

Outside Consultant's Report Finds What The Santa Barbara Business Community Has Been Saying Along: Red Tape Is Bad For Business

Last year, the City Council commissioned a report on the State Street vacancy problem and the steps that City Hall can take to help revitalize Downtown Santa Barbara. This report was met with skepticism by many in the business community due to its significant price tag of \$84,000. These skeptics believed the main problem was clear - government regulations are suffocating business development - and action, not study, was needed.

This conclusion was confirmed by the recent report. The report proposed that City Hall spur development by altering its zoning and permitting process with less building-permit restrictions and creating an Economic Development division.

For now, the Santa Barbara City Council has given the go-ahead to explore hiring an economic development director. The director's job would be mainly focused on business retention, vacancies, land use regulations, and economic development. The City Council is currently looking at candidates for this position.

Given that the state street corridor has been struggling for years and the current vacancy rate downtown is nearly three times the rest of the City, it begs the question, why did the City take so long to act? When Councilmembers come calling this election season, ask them. If/when they respond "we wanted to make sure that we had all the facts," ask them why this approach was not used in developing the current landlord tenant reform?

Andy Caldwell Runs For Congress



In August, Andy Caldwell announced his candidacy for Congressional Representative for District 24. District 24 includes Santa Barbara County, San Luis Obispo County, and parts of Ventura County.

As Executive Director of The Coalition of Labor, Agriculture, and Business (COLAB), Andy Caldwell is well prepared to address needs in each of these

areas. The threat of wildfires, debris flows, water shortages, and falling infrastructure are high on Caldwell's list of priorities for the Santa Barbara County. He is also committed to border security and defeating both "Medicare for all" and the Green New Deal.

It will be interesting to see how Caldwell's plans to reduce government dependence by restoring economic freedom will interact with opponent Salud Carbajal's contrasting views of an even larger government and greater dependence by citizens on it.

Santa Barbara City's AUD Program Nears Its End: Or Maybe Not?

The Average Unit Density (AUD) program, developed in 2013 to encourage developers to build more rental apartments, is set to expire. The expiration will occur either in 2021 or when 250 residential units have been constructed, whichever occurs first. According to the City of Santa Barbara's website, 198 units have been completed and another 48 have been approved. This means 246 units are already set to be constructed under the program.

Whether you like it or not, the program has contributed additional rental housing after decades of almost no rental housing being built. The more units that are built (increase in supply), the more likely that the market will provide lower rents and give the City Council less reason to intervene for personal political purposes.

With the program nearing a close, public input has been sought. Much of this input has been positive toward revising and renewing the AUD program. The main revisions considered include focusing development on top of existing buildings in the downtown corridor (through removing the Milpas Corridor as a potential site for projects) and potentially allowing developers to pay a fee as opposed to being required to build parking. Parking remains a major problem with the program.

In the fall, the Planning Commission will review the public's recommendations before it goes before the City Council in the winter.

PATH Works With Landlords To Help Reduce Homelessness

People Assisting the Homeless of Santa Barbara (PATH) recently developed a initiative called "LeaseUp" to help connect the county's homeless population to landlords willing to rent to them. Rather than trying to build more affordable units, LeaseUp works with both caseworkers and landlords to fill their current vacant units.

LeaseUp is not a public rental website; it is only open to caseworkers seeking housing for low income clients and property owners who want to list their rentals.

PATH hopes that LeaseUp will lead to an increase in Section 8 housing, now known as the Housing Choice Voucher Program (HCVP). The Housing Authority of Santa Barbara's website describes the HCVP as "the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. A housing subsidy is paid to the landlord directly by the Housing Authority on behalf of the participating family. The family then pays the difference between the actual rent charged by the landlord and the amount subsidized by the program."

Landlords are not required to accept HCVP tenants and doing so comes with additional regulations and restrictions not applicable to other tenants. Nonetheless, for landlords who are looking to fill vacancies, and/or are willing to accept HCVP tenants, the LeaseUp program may be something to look into.

The website is currently launched and waiting for landlords to list their units.
leaseuplosangeles.org (this website is being used for both Los Angeles and Santa Barbara).

Local Government: Left Hand Meets Right Hand

After months of controversy, the Santa Barbara City Historic Landmarks Commission voted 5-2 to approved a neon sign located in new State Street retailer Institution Ale five feet away from the storefront window.

This sign apparently violates Santa Barbara's

current Sign Ordinance, which states that a neon sign must be at least 10 feet away from the storefront window. According to the City of Santa Barbara, the Sign ordinance is intended to protect the "distinctive character and historic architecture" of the City, and minimize the distracting effect of signs for drivers.

The Landmark Commission's decision to allow the sign was based on the idea that the neon sign is in line with the historic nature of this specific building. Previously, 516 State Street was a car dealership with neon signs hanging above it. Additionally, Institutional Ale Owners provided photos of other local businesses who currently have neon signs.

While some worry that this opens the door to other aesthetic changes to the city, others think the prospect of a successful business in the midst of all the vacancies on state street is too important to overlook. This entire saga is just one more example of why new business is struggling in the downtown area and why the vacancy rate is so high.

Mesa Resident Brian Campbell Joins Race For Santa Barbara City Council

Mesa resident Brain Campbell (photo with family at left), along with Mike Jordan, Luis Esparza, Travis Boise, and Teri Jory, recently qualified to run for the District 2 City Council seat.



A 25-year resident and law school graduate, Campbell was initially drawn to Santa Barbara for its beauty and community. He expects to provide citizens with a new perspective outside the political machine and party politics. In his own words, Campbell wants to actually "help the homeless, protect renters and landlords, create more housing, and see more businesses thriving and growing." He is dedicated to improving Santa Barbara for the generations to come. "I am just like you. I worry about my children and the future of this beautiful place."

The successful candidate will replace Randy Rowse in the City Council. Randy will return to operating the Paradise Cafe with his wife Janet.



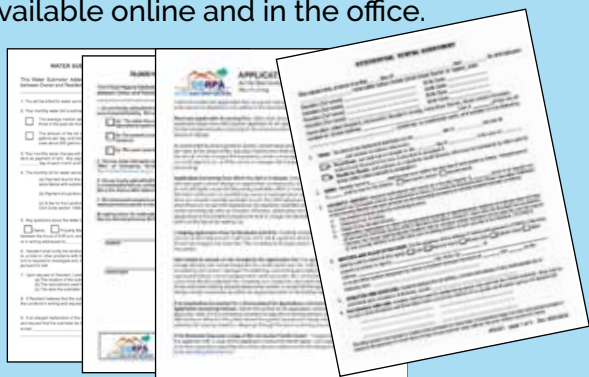
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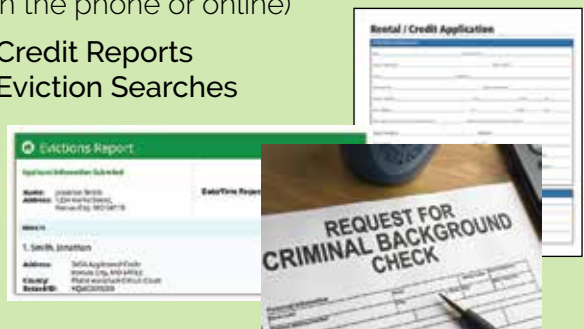
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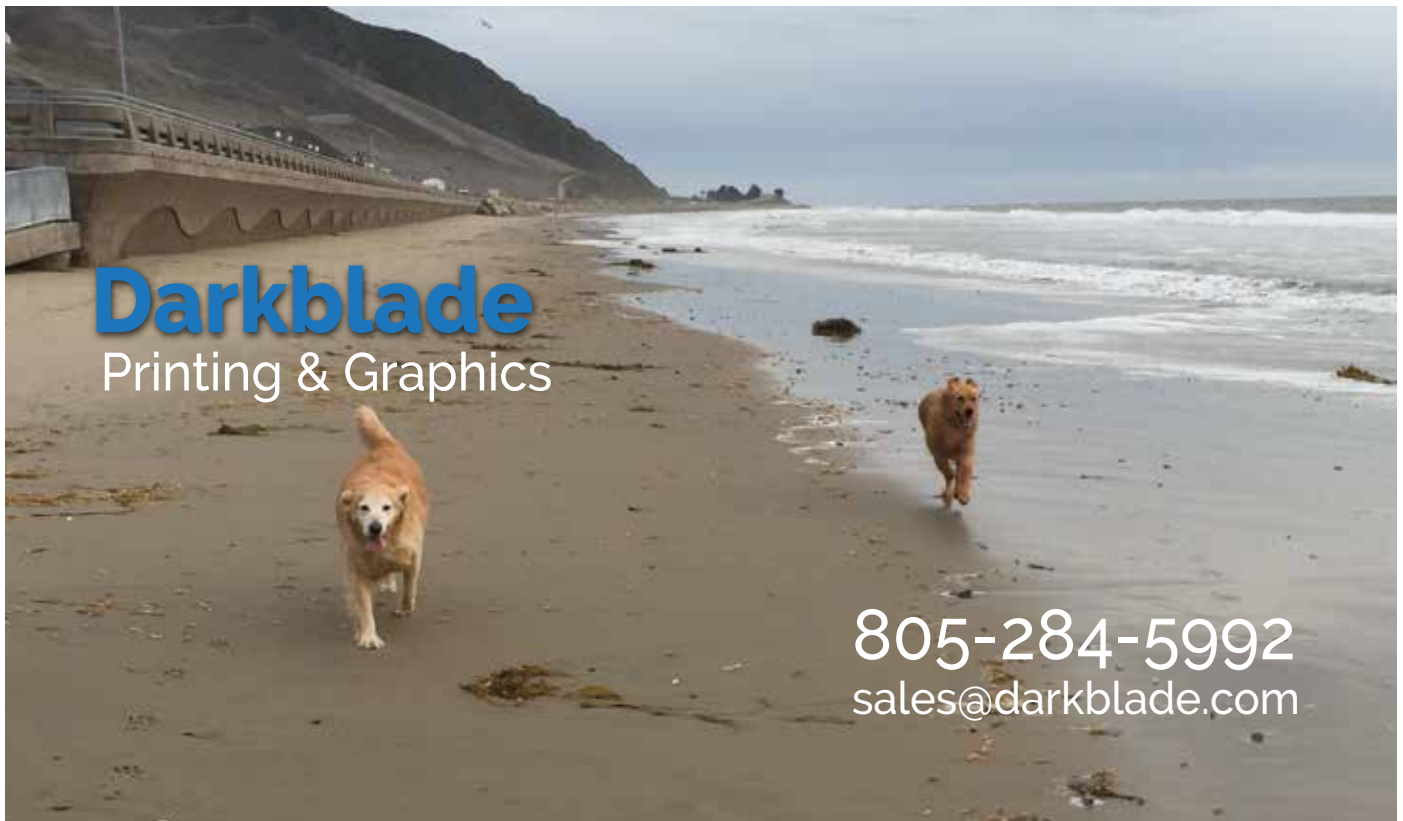
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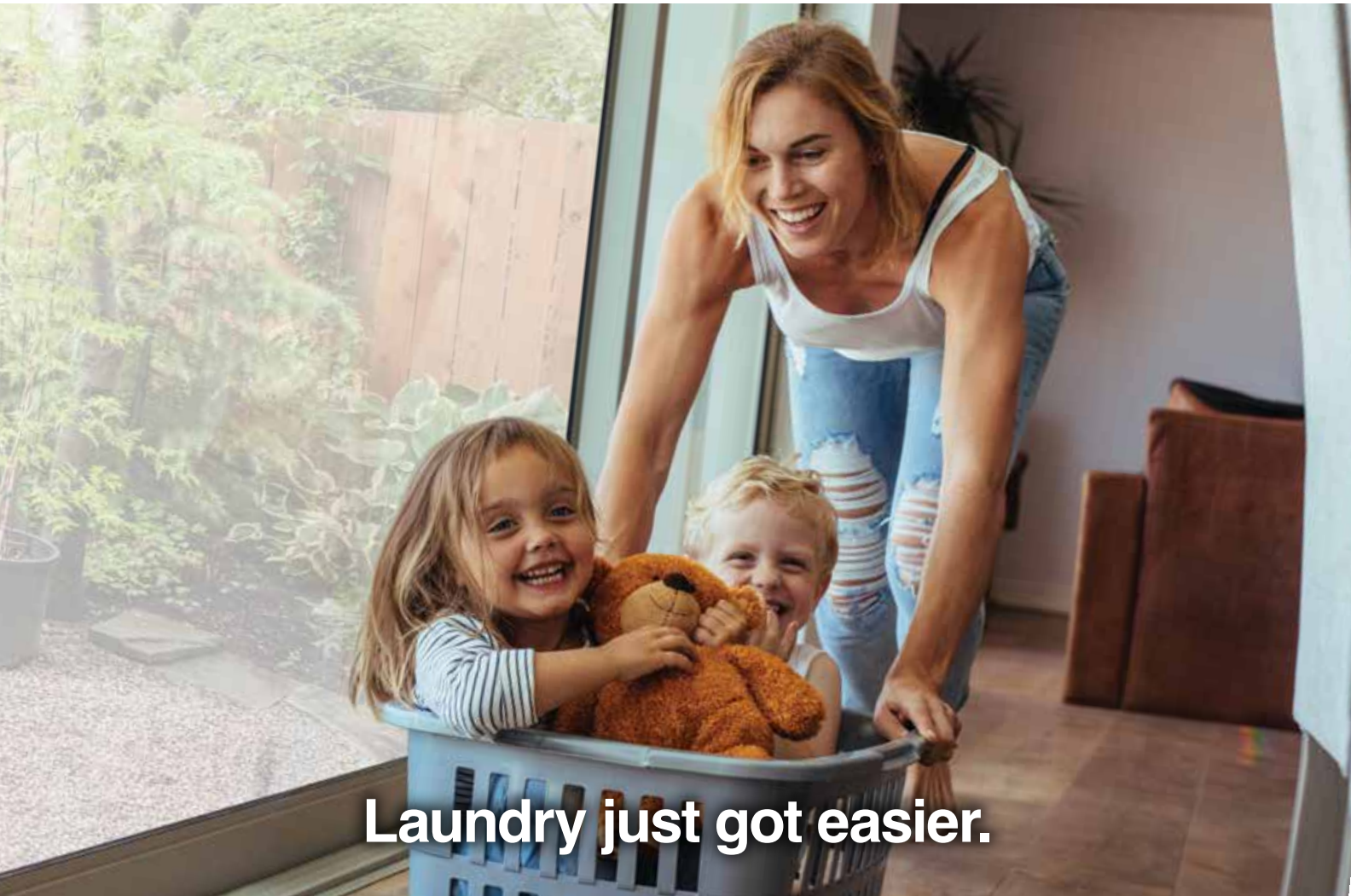
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