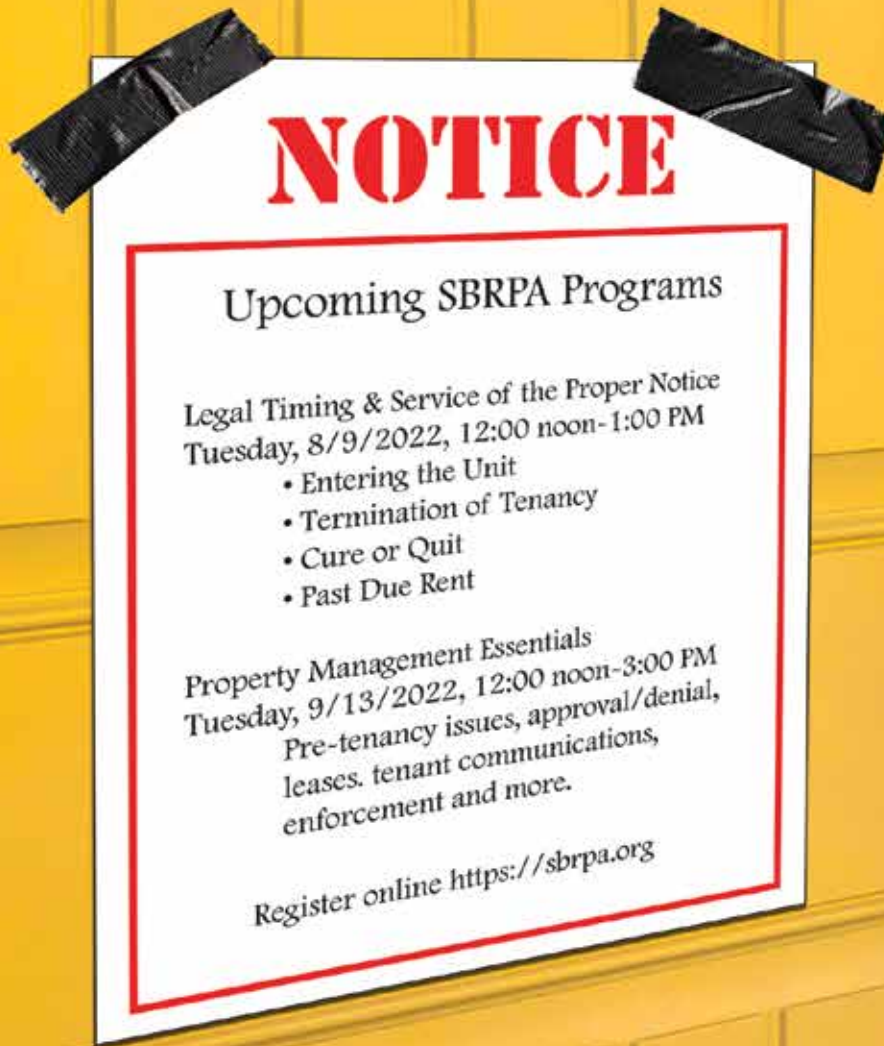


SANTA BARBARA RENTAL PROPERTY news

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



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President's Message



Betty L. Jeppesen Esq. • Attorney at Law and Real Estate Broker

The last day to submit new Bills has passed. Remaining Bills scheduled for review and decision for this year will be heard and determined in August.

The additional ERAP funds mentioned in last month's message remains at 2.7 billion for rental assistance and has been increased by \$200,000 to 1.4 billion for past due utilities.

By the time you read this, we will know if the moratorium on evictions FOR NON-PAYMENT OF RENT for those tenants who applied for rental assistance by March 31, 2022 has been extended beyond June 30, 2022. Remember, it is ONLY for those tenants who DID apply and were not DENIED by March 31, 2022. All other tenants are supposed to pay their rent beginning April 1, 2022 and continuing. For all those other tenants, you can serve a 3-Day Pay or Quit Notice and proceed with an Unlawful Detainer action always remembering that it is now 3 non-weekend and non-holiday days. In other words, if you serve on a Monday, the tenant has Tuesday, Wednesday and Thursday to pay you or you can file your Unlawful Detainer on the Friday. If you serve on a Thursday, the tenant has Friday, Monday and Tuesday to pay you or you can file your Unlawful Detainer action on Wednesday. And, remember, it is just for those actions based on non-payment of rent.

You can serve a 3-Day Notice to Conform or Quit at any time and if the tenant does not conform, you can proceed with an Unlawful Detainer action. This applies even to those tenants who did apply for rental assistance. That means a breach of any of the provisions of the Lease or Rental Agreement such as subletting without the landlord's permission; smoking in a non-smoking building; drugs; disturbing neighbors, etc.

Santa Barbara Rental Property Association's lawsuit against the City of Santa Barbara for the 3 months' relocation payments has survived the Motion to Dismiss and is continuing forward. This case is filed in the United States District Court, Central District of California as The Santa Barbara Apartment Association, Inc. v. City of Santa Barbara, et al; Case No. CV 22-1315-GW-MAAx and has been assigned to The Honorable George H. Wu, United States District Judge. We will continue to apprise you of the status of the case.

Over the past many months, there has been an increase in thefts from cars, porches, and outdoor areas in all areas of Santa Barbara and environs.

Please keep your car doors locked even if your vehicle is in your driveway. Even locked cars have regularly broken into at public parking lots such as the one by Hendry's Beach. People have reported lawn furniture and garden decorations being stolen. Santa Barbara residents have posted surveillance camera footage of people coming to the front door at all hours of the day and night and demanding access. Please report such incidents to the appropriate law enforcement agency. Remember that you can call the police or highway patrol and ask that officers in need of a place to park to write their reports can park in your apartment complex parking lots or out on the street to do so. This has a great deterring effect on crime as well as people otherwise drawing graffiti on building walls, retaining walls, staircases, fences and other areas.

SBRPA will be presenting programs throughout the year on topics we believe will be of interest to you. Our two upcoming programs are:

Legal Timing and Serving of the Proper Notice, Tuesday, 8/9/2022

Property Management Law, Tuesday, 9/13/2022

If you have a specific interest, please contact Laura Bode (laura@sbrpa.org) and we will do our best to find appropriate speakers to present a program on that topic.

Thank you for your membership and have a wonderful Summer.

Betty L. Jeppesen

President



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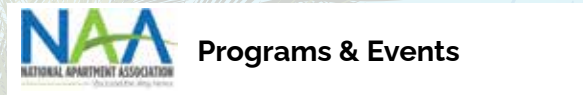
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SBRPA Calendar



Learn about the Programs, seminars, classes, tools and events that NAA has available for its members, including: Click & Lease Program, NAAEI classes and online professional courses, NAA meetings, conferences, and networking opportunities, NAA research, NAAPAC, and Grassroots lobbying tools. See page 23 for more information.

SBRPA Class: Rental Housing – Legal Timing & Serving the Proper Notice

August 9th, Tue., 12:00 noon to 1:00PM

This class will familiarize members with the new documents and forms available on the website. Instructors SBRPA President Betty Jeppesen and Attorney Jim Cole will review the documents and explain when and how to give tenants and renters proper notice.

Register online at www.sbrpa.org. See page 9 for details

SBRPA Certificate Course: Property Management

September 13th, Tue., 12:00 noon to 3:00PM

Our Property Management course will be taught by Tracey Merell

Register online at www.sbrpa.org. See page 21 for details

4th of July at Stearns Wharf



Santa Barbara's traditional Fourth of July beachfront celebration will be back again and ready to build upon the fabulous events in years past! Join us at the beautiful Santa Barbara waterfront along West Beach on Independence Day for food, music, fireworks, and fun for all ages!

2022 JULY						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4 	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Ideas for an article or class that you want us to schedule? Please contact us with your request and/or ideas.
email: admin@sbrpa
phone: 805-687-7007

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Legal Timing & Serving the Proper Notice

Tuesday, 8/9/2022
12:00 noon to 1:00 PM
Free to SBRPA Members

In May we posted several new Information Document on our website:

- INFO-001: Service of Notice of Rent Increase
- INFO-002: Service of Notice of Entry
- INFO-003: Service of Notice of Termination of Tenancy
- INFO-004: 1482 Notice Requirements

Register at <https://www.sbrpa.org/events/serving-notice>

Please join us on Tuesday, 8/9/2022 as SBRPA President Betty Jeppesen and Attorney Jim Cole review these documents, and provide insight on the Legal Timing and Serving of Proper Notices to your tenants and renters.

We will cover: Entering the Unit, Termination of Tenancy, Cure or Quit, and Past Due Rent.



Betty Jeppesen, SBRPA's current president, has more than 35 years' experience in landlord-tenant, real estate and contract law. She served as General Counsel in charge of litigation and legal management of 1,500 apartment units in Santa Barbara. Betty has taught several courses during the pandemic for SBRPA and has helped to guide many landlords through these rough times. She was able to obtain Sheriff's lockouts as well as negotiating multiple settlement agreements between landlords and tenants.



Jim Cole, a partner at Slaughter, Reagan & Cole, LLP has been a landlord advocate for over 30 years. He works with residential and commercial property owners as well as management companies on lease drafting, negotiation and litigation. Jim also does real property transactional and trial work, regularly speaks to landlord/management groups, and is a guest lecturer at Santa Barbara City College. Jim volunteers in the Santa Barbara Superior Court as a settlement master for landlord/tenant matters and sits as a judge pro tem in the Ventura County Superior Court to conduct mandatory settlement conferences in the civil department.

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CalRHA Legislative Updates



Kate Bell, KateBellStrategies.com

June 2022

State Budget Update

Governor Gavin Newsom unveiled his "May Revision" to the state budget, and in this latest update he has proposed additional funding that would help our membership, including:



- **\$2.7 Billion for Emergency Rental Assistance.** Governor Newsom is proposing significant state funding for qualified, low-income renters who have requested rental assistance prior to March 31, 2022.
- **\$1.4 Billion to Help Californians Pay Past-Due Utility Bills.** As Californians continue to face difficulties paying utility bills, this proposed funding expands upon last year's utility relief program by allocating \$1.2 billion for electricity bills and \$200 million for water bills.

The Democrat state leaders, Pro Tem Toni Atkins, Speaker Anthony Rendon, and the two Chairpersons of the Budget Committees, Senator Nancy Skinner and Assemblymember Phil Ting,



image mercurynews.com

have proposed their budget the Governor, which will be finalized once negotiations with the Governor have been concluded, and the budget is passed by the Legislature no later than June 15, 2022. That proposed agreement includes \$50 million for financing of Accessory Dwelling Units (ADUs).

Legislative Update

We have now passed the deadline for passage in the house of origin where bills proposed by the Assembly required passage on the Assembly Floor and bills proposed by the Senate required passage on the Senate Floor. There were several proposed bills initially of great concern to rental housing providers that are "dead", including AB 2050 (Lee)

Restrictions on use of Ellis Act, AB 2203 (Rivas) FEHA Credit Reports, and 2713 (Wicks) Just Cause. Holding these bills was a critical win for the rental housing industry.

There are a couple of bills that passed the Senate Floor that we had supported and will continue to advocate for as they move onto the Assembly:

- **SB 847 (Hurtado).** "COVID-19 Rent Relief: Grant Program" Would create a grant program for landlords who received a negative decision or no response within 20 days – for "Tier 1" applicants (e.g., not corporation, non-REIT, and non-LLC).
- **SB 897 (Weickowski).** "ADU Height Limits" – (Original proposal was to increase height limit from 16 to 25 feet). Now requires that the standards imposed on ADUs be objective and defines "objective standard" as subjective judgment by a public official and is uniformly verifiable. Also, requires a local agency to issue a demolition permit for a detached garage replaced by an ADU at the same time.
- **SB 1133 (Archuleta)** - "Price Gouging: State of Emergency: Specified Housing Exclusion" - The bill would also exclude specific categories of housing from these provisions, including housing that was issued a certificate of occupancy for residential use within the 3 months preceding a proclamation of a state of emergency or declaration of local emergency or within the duration of the proclamation or declaration.
- **SB 1262 (Bradford).** Courts' Indexes - This bill would require publicly accessible electronic indexes of defendants in criminal cases to permit searches and filtering of results based on a defendant's driver's license number or date of birth, or both.

However, there are several "high-priority" bills that we continue to be opposed to that will be going on to the next legislative house, which include:

Continued on page 13

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- **Aug. 1**
Legislature reconvenes from Summer Recess
- **Aug. 12**
Last day for fiscal committees to meet and report bills
- **Aug. 15 - 31**
Floor session only. No committee may meet for any purpose except Rules Committee, bills referred pursuant to Assembly Rules 77.2, and Conference Committees
- **Aug. 25**
Last day to amend bills on the floor
- **Aug. 31**
Last day for each house to pass bills
- **Sept. 30**
Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1

Rent Assistance Update

The rent assistance application portal is now closed and approximately \$3.623 billion has been paid out in rent assistance in the state, as of June 6, 2022.

For more information on the rental assistance program, please visit [Housing is Key](https://housing.ca.gov).
<https://housing.ca.gov>



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PROPERTY FACTS

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Units: 20 Units

Unit Mix: (16)2+1, (4)1+1

Lot Size: 41,085 SF

List Price: \$4,900,000

ABOUT

The Villa Salvador Apartments features 20 units spread out over nearly 1 acre in a convenient central Oxnard location 2 blocks south of 5 Points. Layout includes 2 buildings, an onsite laundry room and 20 individually enclosed garages. Great unit mix with (16) 2BD/1BA and (4) 1BD/BA apartments. Separately metered for gas and electricity. Dual pane windows. Improvements of note include new roof, repair of downspouts and trim painting all done within the last 2 years. Current rents are approximately 16% below market allowing for a new owner to increase net operating income over time.



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PAY YOURSELF! (And Invest in Yourself!)

A landlord shares something he neglected to do when he first started out, which he encourages all landlords to do:



"One thing I neglected to do during my early investing years was figure out what my time was worth. I started this game like many small time ma and pa investors: I did everything except stuff I wasn't licensed to do (i.e. HVAC, roofing).

- I fixed my own toilets, sinks, etc.
- I installed my own flooring.
- I painted my own walls.
- I showed each rental home in person to any and all interested parties.
- I took calls and listened to stories that went on for 20 minutes and was told I was rude when I had to hang up.
- I even cleaned my own rentals. Ugh!
- I also had maxed out at 12 residential rental homes, and it was a rare week when I had one evening free to be home and do stuff with my family and friends. Saturdays I was always at rentals, fixing, installing, sweeping, etc.

In other words, I bought myself a job in addition to my regular full time job. Looking back now, I'm not ashamed of it, but man it took me a long time to see how much that was holding me back.

I also look at my profits from those years: it was almost nothing. Because I was willing to work "for free" I often bought "deals" that weren't good deals at all and had barely any money left over from rents after the bills were paid. I think I took home about \$500 - \$1000 per month in those days. That was scant pay for so much work!



Then Brad 20K's advice to, "Take the tools out of the truck" came along and it changed my life. Since then, our total number of rentals has more than quadrupled and expanded into commercial renting as well.

My take home pay in 2021 exceeded my pay from my regular job. I never could have done this and kept up with all of it had I maintained my old DIY (Do It Yourself) system.

So here are my questions:

- Do you pay yourself for the work you do at your rental homes?
- Do you feel that you're making enough profit to justify the hours you put in?
- If you were you to hire someone to do your tasks for you, would the amount of pay you take for yourself be enough to cover hiring it out?

CAVEAT: in answering these questions, do not consider equity (sweat or amortization) as pay. Don't include tax benefits either. The reason is you can't pay a manager/maintenance man with equity or tax benefits. I'm talking exclusively cash money in the bank/wallet."

These questions led to a very thought-provoking discussion on our Q&A Forum. Real estate investors from different states and from different points in their investing career shared if, when, and how much they pay themselves and gave their reasons. I would encourage you (all landlords) to read the "Pay Yourself" discussion (<http://MrLandlord.com/landforum>), especially if you are a newer landlord. Seriously, it's a good chance it will be the most important discussion you will read this month.

Continued on page 17

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DEBT REPORTING PAYS OFF!

There was a note posted earlier this month which had good news to share from one landlord.



The note also serves as encouragement to others to always report debts owed from former residents.

"I just wanted to recommend Mr Landlord's debt reporting service, as I was able to collect money owed due to using this service. I paid the \$12 and received \$1800.00! Thank you Jeffrey!! (orit , MI)

For information on MrLandlord's low-cost debt reporting service, see <https://tenantcreditchecks.wordpress.com/frequently-asked-questions-about-the-service/#tell-me-more>

LANDLORDS SHOULD NOT BE STUCK WITH THE BILL

Who would have thought?

According to a news account,* a city council in one Washington city voted this Monday to use "Coronavirus Recovery Funds"



image healthaffairs.org

to pay for the overdue utility balances of landlords who were left with utility bills unpaid by their residents. Are you in one of several states where the landlord is held ultimately responsible for unpaid utility bills by your residents? If so, and you are part of a local real estate or landlord association, perhaps you can attempt to get your city council to use left over Coronavirus relief money to cover unpaid utility bills by residents in your area.

Better yet, lobby or support legislation to change the law all together, which leaves landlords liable for the unpaid bills of former residents.

*To read the full article, go to <https://www.chronline.com/stories/chehalis-city-council-votes-to-pay-off-utility-bills-for-landlords-left-with-balances-by-tenants>,

DON'T JUMP EVERY TIME THEY SAY JUMP!

When you advertise your property for rent, of course you hope for responses. However, just because they may want to immediately see your available property does NOT mean that you have to immediately respond to every request for a viewing.



image Realtor.com

One landlord shared that she started advertising a rental on Zillow. In the ad she gave her phone number and email. She got bombarded with texting and calls. She would show the house at all times that the prospective applicants were available. Responding and doing showings in this manner took so long. And she ended up meeting crazy people.

She posed a question on our Q&A forum asking how could she safely and efficiently rent her house to save time and to weed through the bad applicants. Several landlords offered different methods to safely and efficiently handle inquiries. One suggestion is shared below.

"We do not publicize our phone OR email, but direct people to our preview questions (listed on a clickable Google Form). We quickly weed out those who do not qualify for a variety of reasons: income, eviction history, etc. I schedule showings on a few specific days, 15 or 20 minutes apart, and invite only the pre-qualified applicants to those showings. We use another Google Form from which the pre-qualified applicants can choose a pre-set time.

We confirm that they are coming on the day of the showing via email or text. Fail to confirm and you are blacklisted. We meet with the applicants that confirm and show the rental. We talk about the way we do business, our expectations of our residents, etc., and provide a link to our application (via another Google Form). They email copies of their driver's license and pay stubs/proof of income. We do background and credit checks. Only then do we offer a lease."

For more suggestions go to <https://www.mrlandlord.com/landlordforum/display.php?id=14653514#14653514>

Business Partner Directory

Welcome to **SBRPA's Business Partner Directory**, our Vendors & Supplier listing. This is a special member group created for our Vendors and Suppliers. You get a free listing in the Business Partner Directory on our website, and your page will include a description of your business, your logo and contact information, as well as a link to your own website, LinkedIn/Facebook URLs and Twitter/Instagram handles. To join, please fill out an online application (<https://www.sbrpa.org/membership-information>) or call the office to have one emailed to you. For more information about our Business Partners, contact: Lori Zahn Chair, SBRPA Business Partnerships, Cell 805.451.2712



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Coastal Housing Partnership hosts a Rental Listing Site for Landlords/Property Managers. This site is FREE for local landlords to post their residential rental listings in Santa Barbara County and Ventura Counties. Feature your property to over 45,000 local employees and 60+ companies. List your property with confidence on the rental listing site that boasts a dynamic tenant pool. The site can be accessed only by the employees of our member companies. Go to <https://rentals.coastalhousing.org/> for more info and to register for the site.

Michele Herrera
Loan Advisor, NMLS #321843
805.680.0066



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Michele Herrera, RPM Mortgage

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Michele Herrera has been helping the Santa Barbara community with their mortgage lending needs throughout California for over 28 years. Because Michele began her long career as a loan processor, she is intimately familiar with all the details of the home financing process. With decades of practical experience under her belt, and knowledge of the best lending options available, Michele's clients have the advantage they need to successfully close their loan. RPM gets you Home On Time® whether you're buying or refinancing. For more info <https://www.rpm-mtg.com/lo/mherrera/>



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Aneta Jensen
805.879.9624
ajensen@radiusgroup.com

BRE 01994822



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2022 Year-To-Date Sales

53-Key Boutique Hotel · West Beach, Santa Barbara

1314 S. Broadway, Santa Maria
127-Unit Multifamily · Listed at \$18,995,000

6073 Woodland St., Ventura
40-Unit Multifamily · \$14,650,000

6587 Cervantes Rd., Isla Vista
Student Housing · \$9,541,080

146 Loureyro St., Santa Barbara
5-Unit Multifamily · \$6,250,000

2024 Anacapa St., Santa Barbara
9-Unit Multifamily · \$4,000,000

326 W. Victoria St., Santa Barbara
4-Unit Multifamily · \$2,300,000

1628 San Andres St., Santa Barbara
3-Unit Multifamily · \$2,095,000

308 W. De La Guerra St., Santa Barbara
4-Unit Multifamily · \$1,730,000

520 Bell St., Santa Barbara
Mixed-Use · \$1,025,000

Select Pending Sales

851 Camino Pescadero, Isla Vista
84-Unit Student Housing · Listed at \$36,000,000

515 E. Arrellaga St., Santa Barbara
10-Unit Multifamily · Listed at \$6,595,000

6625 Del Playa Dr., Isla Vista
4-Unit Student Housing · Listed at \$5,950,000

1317 Punta Gorda St., Santa Barbara
Fully Entitled Development · Listed at \$3,950,000

5392 Hollister Ave., Goleta
Mixed-Use Asset · Listed at \$3,095,000

4085 State St., Santa Barbara
±1.71 AC Open Parcel · Listed at \$2,900,000

1916-1920 Chino St., Santa Barbara
3-Unit Multifamily · Listed at \$2,050,000

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PROPERTY MANAGEMENT ESSENTIALS



Tuesday, September 13, 2022

12:00 noon - 3:00 PM

Veteran's Memorial Building •

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Get Answers to your Questions about New Laws!

This course is a MUST for managers, leasing agents, supervisors, and rental owners! We will cover issues from pre-tenancy, to tenancy, to termination of tenancy, through post-tenancy.

Pre-tenancy

- Screening
- Source of income
- Approval/denial
- Leases.

Tenancy

- Communication
- Enforcement
- Disability requests
- VAWA (Violence Against Women Act)
- Unit entry
- Maintenance

Termination of tenancy

- Notices
- Just cause
- Path of an eviction

Post tenancy

- Abandonment
- Pre-move out inspections



Tracey Merrell, Managing Attorney of Education for Kimball, Tiery & St. John will be teaching this course. She began her career representing banks in post foreclosure evictions and is experi-enced in all aspects of litigation, from the development of case strategy, through discovery, depositions, motion practice, and trials.

Member: \$99

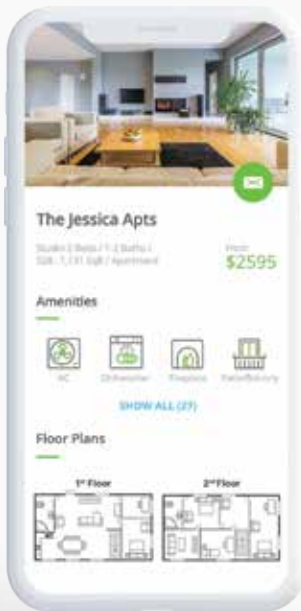
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Register at <https://www.sbrpa.org/events/property-management-laws>



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Vacancy & prospect tracking	✓	✓
ILS posting	✓	✓
Online applications	✓	✓
Online payments	✓	✓
Online maintenance	✓	✓
Email & text communications	✓	✓
Walk-in payments with PayNearMe	✓	✓
Vendor payments	✓	✓
Owner payments & reports	✓	✓
Live chat support	✓	✓
Renters insurance†	✓	✓
Resident screening†	✓	✓
Corporate websites†	✓	✓
Property websites†		✓
Online lease execution†		✓
Customer relationship management		✓
Job cost tracking		✓
Rent deferment		✓
Rent control		✓
Invoice approval & processing		✓
Corporate accounting		✓
Customizable financial statements		✓
Menu-level security		✓

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Danielle Drozdek
RB Homes, Inc.

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NAA's Events and Programs



National Apartment Association

Following is an overview of the National Apartment Association's programs of interest to Rental Housing Owners.

- Click and Lease Program
- NAAEI programs and online professional development
- NAA meetings and conferences, including networking opportunities
- NAA research
- NAAPAC
- Grassroots lobbying tools.



Click and Lease Program

Accelerate Your Leasing. Enhance leasing compliance and delivery with NAA Click & Lease, the industry's trusted platform.

Compliance. You are protected.

The *NAA Click & Lease* packages are the industry standard and are reviewed annually by attorneys across the nation.

Compliant forms. Lease forms are automatically updated through an annual review and an ongoing form compliance oversight at the local, state and national level when laws and regulations change.

Cost Effective. You save money.

NAA's nationwide network of legal counsel does the work to keep forms up to date, saving you from in-house legal teams.

Litigation Defender Insurance.

Triggered whenever a plaintiff challenges a provision of the NAA Click & Lease Form. (Contact NAA for Terms and Conditions).

Convenient. You gain efficiencies.

The multi-user platform integrates with most property management software, enabling a simple experience from start to finish. And more, you get access

to the largest library of customizable lease forms that are flexible to fit your needs.

Online & Paperless. Fully automated application and leasing process, including fully embedded eSignatures.

Simple Application. Simple, online rental application helps keep information in one place and optimizes the application process for prospective residents.

Customizable Database. Users can setup a lease database that stores information for each community in your portfolio.

To sign up or request a demo, go to

<https://lease.naa.org/home-32QQ-4924J.html>

NAAEI Programs

Following is a list of upcoming NAAEI events:

2022 NAAEI Proctor Training 7.13.22

Online, 2:00PM - 3:30PM EDT

Proctor training is required for affiliate staff to administer in-person credential exams. Participants will receive proctor credentials at the completion of the training.

2022 NAAEI Exchange 8.1.22 to 8.3.22

Marriott Louisville Downtown, Louisville, KY

- 2022 Government Affairs Roundtable
- 2022 AEX Live

2022 AATC Business Exchange 8.9.22

Irving Convention Center, Irving, TX

NAA also offers several credential courses:

- Certified Apartment Manager (CAM)
- Certificate for Apartment Maintenance Technician (CAMT)
- Certified Apartment Leasing Professional (CALP)
- Certified Apartment Portfolio Supervisor (CAPS)
- Certified Apartment Supplier (CAS)
- Independent Rental Owner Professional (IROP)
- Specialist In Housing Credit Management (SHCM)
- Credential For Green Property Management (CGPM)

NAA Meetings & Conferences

NAA brings the top industry thought leaders, trendspotters and the opportunity to collaborate with your peers at its conferences. You can expect that and more including new educational learning formats and other innovative experiences to propel your career and company forward.

Events

[Apartmentalize. 6.22.22 to 6. 24.22](#) (2023 TBA)

Experience the unstoppable energy of Apartmentalize, where the industry's thought leaders, trend-setters, and innovators come together to share ideas and solutions.

Exhibit

[Exhibitor Advisory Group](#). This group works closely with NAA to create a valuable and productive trade show experience for exhibitors and attendees alike. To that end, all feedback is welcomed and encouraged, so feel free to reach out to members of the group directly to share your thoughts and suggestions for improving future exhibitions. Interested in becoming an exhibitor at one of our events? Contact NAA for details.

Maintenance Mania

Maintenance Mania® is a national program offered by NAA and presenting sponsor HD Supply (HDS), in which maintenance technicians compete against each other in various skill-based games.

Each NAA local affiliate has the opportunity to have their maintenance technicians compete individually to win various local awards and a chance to compete at the National Championship held at Apartmentalize.

Participants must be employed by a community in good standing with their local association or an NAA Direct Member. Members interested in qualifying for the National Championship must register as competitors in the National Championship Qualifying Program with their local affiliate.

At the end of the competition year, NAA will offer the top participant from each of the ten (10) NAA regions, plus ten rookies, the chance to compete in the National Championship. The affiliate also can give the competing individuals various awards at a local level. It is up to the affiliate to decide how they will distribute awards to the winners at their event.

NAA Research

Members can go to the NAA website to find articles on current and ongoing research of interest to the housing industry. Current topics include:

[NAA Inflation Tracker: June 2022](#)

CPI, Latest Release, May 2022; By all measures – headline, core, monthly and annually – the May Consumer Price Index (CPI) came in hotter than expected. <https://naahq.org/node/4550>

[Affordability Watch Q1 2022](#)

Executive Summary U.S. households experienced a variety of challenges that affected affordability including housing shortages, delayed construction and housing cost increases that outpaced income <https://naahq.org/node/4572>.

[NAAEI Apartment Jobs Snapshot Q1 2022](#)

The apartment industry continued its robust performance in Q1 2022. As a result of surging demand and occupancy rates, the demand for multifamily talent stood strong. <https://naahq.org/node/4471>

[Spring 2022 Apartment Market Pulse](#)

Another Eye-Popping Quarter for Apartments U.S. Apartment Market The apartment market sustained its growth trajectory in the first quarter of 2022 despite inflationary concerns. <https://naahq.org/node/4401>

[New Income/Expense IQ](#)

The National Apartment Association (NAA) in partnership with the Institute of Real Estate Management (IREM) is launching a new income and expenses analysis experience. <https://naahq.org/node/151>

[2022 Apartment Housing Outlook](#)

The delta variant of the coronavirus threw the U.S. economy for a loop during the third quarter, but by early December, signs that the recovery was back on track were broad-based. <https://naahq.org/node/1750>

NAAPAC

If you are in housing, you are in politics. From fair housing to flood insurance, energy to the environment, the 535 members of the US Senate and House of Representatives play a huge role in shaping the policy and economic climate for the apartment housing industry.

It takes not only the collective power of the NAA, but also the work of individuals at the grassroots level to make sure we, as an industry, are at the table and not "on the menu" when important policy decisions are made.

NAAPAC is the bi-partisan political action committee that supports Congressional candidates who

represent good government and understand the needs and concerns of the apartment housing industry.

NAA is prohibited from using general account funds such as membership dues or other revenue to contribute to federal elections. That means NAAPAC, by pooling the individual contributions of NAA and affiliate members, is the only vehicle through which NAA and its members may participate in the political process. NAAPAC may only accept personal contributions from members of the NAA and its affiliates.

Any funds collected are disbursed directly to the campaign of a candidate or incumbent member of Congress. This "hard money" donation is heavily regulated and monitored by the Federal Election Commission (FEC).

[NAAPAC Gives YOU:](#)

[A Seat at the Table.](#) Would you rather be at the table, or on the menu? NAAPAC is your vehicle to support federal candidates who are open to the apartment industry's views on issues crucial to your business and the industry at large.

[Credibility.](#) NAAPAC gives our profession political credibility. It shows that we are willing to support lawmakers who help enact policies that will allow us to keep creating quality apartment homes across America.

[Success.](#) Growing our influence in Washington, DC, does not happen easily. It is an ongoing and long-term process that only succeeds as more and more NAA members participate. Your involvement makes NAAPAC grow in strength.

[Grassroots Lobbying](#)

[You Have The Power To Create Change For The Rental Housing Industry.](#)

[Tell Your Members of Congress to Cosponsor The Choice in Affordable Housing Act Today!](#)

Section 8 reform has been a long-awaited legislative priority of the NAA, which is why the NAA supports The Choice in Affordable Housing Act (S. 1820/H.R. 6880). This bill is focused on voluntarily incentivizing the participation of the rental housing industry in the Section 8 Housing Choice Voucher (HCV) program. *Notably the Choice in Affordable Housing Act does not include a source of income mandate through the Fair Housing Act, which is a direct result of NAA advocacy.*

[Tell Congress to Support Housing Affordability!](#)
Congress is currently taking up the *Yes In My Backyard* (YIMBY) Act, which is NAA-supported legislation that would help mitigate the crisis of housing affordability. It is essential that you urge your lawmakers to cosponsor this important legislation.

YIMBY Act: The Yes In My Backyard (YIMBY) Act would help eliminate discriminatory land use policies and remove barriers that depress production of housing in the United States. By requiring Community Development Block Grant (CDBG) recipients to report on the extent to which they are removing discriminatory land use policies and promoting inclusive and affordable housing, it will increase transparency and encourage more thoughtful and inclusive development practices. The YIMBY Act is an important step to mitigate the housing affordability crisis by removing barriers to new apartment construction.

[Learn how to be an NAA Advocate at home!](#)

View NAA's "At-Home Advocacy Toolkit" to learn the basics of NAA advocacy programs and how you can be an NAA Advocate at home. It is vital that NAA members become educated on advocacy best practices and how to get involved. An individual advocate can make all the difference when it comes to impacting housing policy across the country.

Read NAA's At-Home Advocacy Toolkit today and become an NAA Advocate!

<https://naahq.quorum.us/campaign/35951/>

[NAA Advocacy Bootcamp Videos](#)

NAA offers a series of videos on Advocacy:

- NAA's Advocacy Bootcamp
- 535 Initiative
- Introducing the Key Contact Program
- NAA Launches Lawsuit to Support Rental Housing
- How to Meet with Congress during a Pandemic
- NAA's Key Contact Program.

For more information see

https://naahq.quorum.us/advocacy_videos/





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Dual Agency

A situation frequently arising in real property transactions that requires caution for buyers, sellers, brokers, and agents is when the sole broker or agent acts as the agent for both the buyer and seller – a.k.a. dual agency. At the most basic level, the potential for conflict is self-evident: the buyer wants to pay the lowest purchase or rental price possible, while the seller wants to collect the highest possible price, and the agent can be caught in between.

How should agents and brokers acting as dual agents approach this situation? What protections are in place for buyers and sellers working with an agent or broker who acts in a dual capacity? What obligations do those protections put on the dual agent, and what are the potential consequences for a dual agent's failure to fulfill those obligations? The answers to these questions have practical and legal consequences for buyers, sellers, agents, brokers, and the industry at large.

Potential for Conflict

California courts and leading treatises have long recognized that this area possesses an inherent conflict and the potential for serious problems because the individual serving as agent for both a buyer and seller is put in the difficult, if not incongruous, position of being a fiduciary to parties who have directly competing interests. As one court explained, "[a]s fiduciaries, real estate agents must act in the 'highest good faith' toward their principals and may not obtain any advantage over the principal in any transaction arising out of the agency relationship." Courts and legal scholars have variously described the situation as "schizophrenic" and "incongruous," and it should be in the mind of every agent or broker acting in a dual capacity both at the outset of the representation and throughout its duration: how can I perform and fulfill my fiduciary duties?

The Dual Agent's Obligations

Disclosure and Explanation

Section 2079.17(a) of the California Civil Code sets

forth the mandatory disclosure requirements of the agent acting in a dual capacity: "As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and seller." Courts mandate that this disclosure should come as early as possible, even before offers are exchanged.

But it is not enough to simply state the existence of the dual agency, as the agent's obligations go beyond mere disclosure: the dual agent is obligated to explain the nature of the dual agency, the consequences thereof, and all material facts that might influence the principal's decision to enter into a transaction. That is, a mere disclosure of the agent's dual capacity may not be sufficient without further explanation of the ramifications that may result from the agent's potentially divided loyalty and the difficulty in obtaining the agent's best advice.

Why do courts and leading treatises insist on both disclosure and explanation? The answer returns to the basic conflict defining the dual agent's role: the agent acting in a dual capacity is a fiduciary to both buyer and seller, but each item of information the agent shares can and will impact the decisions of both the buyer and seller. For example, the disclosure of facts that might motivate a seller to up the asking price would be inconsistent with the agent's duty to obtain the lowest price and most favorable terms for the buyer. Again, courts and leading treatises are skeptical that both masters can be served properly in the dual agency scenario.

What does this mean practically? In the context of a typical real property transaction, this means that an agent cannot simply put forms in front of a client and ask that they be executed. Instead, the agent must both disclose the dual agency and explain its consequences; otherwise, the agent runs the risk of violating their fiduciary and statutory duties, leading to the consequences discussed herein. Alternatively, the agent can refer the parties to counsel and confirm with the client they have sought or knowingly waived the need for counsel.

Ongoing Duties

The dual agent's duties and obligations do not stop after disclosing the agency relationship; after all, a lifeguard's duties and obligations do not end after telling swimmers the pool's rules. As fiduciaries, brokers and agents are bound by a host of specific duties and obligations, including the duty of loyalty and good faith, the duty to be honest and truthful, and the duty to investigate and disclose material facts that might affect the principal's decision. These fiduciary duties are nonwaivable and endure throughout the transaction.

Moreover, these duties are owed to both buyer and seller in the dual agency transaction. Each principal is owed the same obligation of undivided service and loyalty, and courts mandate that the agent must act in the utmost good faith toward their principals. These ongoing duties go hand in hand with the disclosure obligations discussed above: where the same agent represents both parties in a matter on which their interests are adverse, the agent must act with fairness to each party and disclose not only the dual representation but also all facts that the agent knows or should know that would affect the principals' decision-making.

Consequences of Dual Agency

Because of the inherent conflict of dual agent representation, California law has both before- and after-the-fact protections in place for buyers and sellers in the dual agency environment. As discussed above, dual agents are obligated to disclose and explain the nature of the dual agency relationship at the outset of the representation and maintain their fiduciary duties to both buyers and sellers. But the consequences for an agent acting in a dual capacity without informed consent best demonstrate the seriousness with which the conflict is treated by California law.

Stated simply, where an agent acts in a dual capacity without the consent of the principal(s), courts mandate that "no question of fairness or unfairness can be raised, but the transaction will be held constructively fraudulent and voidable at the election of the principal." That is, courts do not even enter into an evaluation of the dual agent's conduct: the dual agency representation that lacks informed consent is presumptively invalid, the agent is presumed to have acted improperly, and the principal can avoid the consequences of the dual agency transaction without even proving that they have suffered an actual loss or injury as a result of the nondisclosure.

So, beyond rescission of the contract, what other consequences could result? Where the buyer or seller alleges that they did not give informed consent to the dual agency relationship, the buyer or seller can seek to set aside the transaction, return the property to the seller, and ask for return of all down payment, taxes, mortgage, insurance, costs of improvements, and interest thereon. Other items of recovery may be available as well. In sum, every dual agency representation raises substantial risks for all parties involved if informed consent is not obtained and documented.

Real World Speed Bumps

What are some real-world considerations generated by the disclosure obligations, the enduring fiduciary duties of the dual agent, and the consequences of the dual agency relationship discussed at length above?

First, we would argue that the disclosure typically made by the agent – simply having the principal sign the standard Disclosures Regarding Real Estate Agency Relationship form – is inadequate. Again, the agent has both disclosure and explanation obligations; buyers and sellers can easily allege that the form is not an adequate disclosure and that the agent failed to adequately explain the consequences of the dual agency relationship, raising the right to seek the remedies outlined above.

Second, we would argue that the circumstances in which the agency disclosure statement is typically presented to the prospective buyer and seller does not stand up to the scrutiny promised by the California legal system, when the dual agency disclosure process is challenged. The standardized disclosure statement contains "legalese," including an advisement that the principal who desires it should seek legal advice from a competent professional, and the Realtor Code of Ethics advises Realtors to provide the same recommendation. But in the typical situation, where the disclosure statement is presented at or just before the time an offer is being made, does that advice to consult a legal professional actually give the buyer or seller time to do so? In other words, does the boilerplate language protect a dual agent who argues that the principal chose not to seek adequate legal help?

Third, we would argue that the intersection of the dual agency relationship and the recommendation that the buyer and seller seek independent legal advice gives rise to yet another potential issue for the

agent. Consider the situation where a dual agent advises a prospective buyer client to make some concessions – for example, waiving an inspection period – to sweeten an offer. Where the dual agent is (1) giving this advice and (2) telling the prospective buyer to consult an attorney only if the buyer thinks its necessary while (3) trying to get the prospective seller the best possible price, is the dual agent able to fulfill their fiduciary duties to all parties involved? And furthermore, is the dual agent getting close to giving legal advice to the prospective buyer to the extent that the “sweetening the offer” advice is potentially to the detriment of the prospective buyer’s rights and legal remedies?

The dual agent must be cognizant of all of their initial and ongoing obligations and must practice open and honest communication with prospective buyers and sellers. We would argue that the only way to avoid the burden imposed by the inherent dual agency conflict is to have all material facts and nature and consequences of dual agency disclosed and documented for full consideration by all parties.

Buyers and sellers must remember the practical reality of the dual agency situation: the dual agent is pulled between two camps with competing interests, and the buyer and seller may be best

served by obtaining independent representation. This includes talking to a lawyer. Lawyers do not just address issues that have already arisen; they are responsible for “issue spotting” and anticipating complications based on what is being said and done based on their knowledge of the law.

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; Nathan Rogers at Nathan@rogerssheffield.com; or Scott Mullen at SMullen@rogerssheffield.com.

Scott Mullen, the author of this article, is an experienced litigator in real property and contract disputes who recently joined the office of Rogers, Sheffield & Campbell LLP. He can be reached at the contact information listed above.

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Santa Barbara Happenings



Terry A. Bartlett – Reetz, Fox & Bartlett LLP

Santa Barbara Residents Protest Fractional Housing

San Francisco-based company Pacaso markets itself as “the modern way to buy and own a second home.” Pacaso sells fractional interests of homes to out of town buyers looking to have a second home. Each owner has the right to stay at the home for 44 days in the year, but not more than 14 in a row. Pacaso currently manages a fractional ownership home located at 1131 Las Alturas Road in Santa Barbara, along with three other properties in Santa Barbara and Montecito which have generated controversy over neighborhood compatibility.

Mayor Randy Rowse and Executive Director Rob Fredricks of the Housing Authority of the City of Santa Barbara have stated that fractional interest homes are harmful to communities like Santa Barbara that have such a shortage of housing. Fractional interest properties take housing out of the inventory for tenants, and locals looking to buy are getting beat out by multimillion dollar companies and investors who will pay hundreds of thousands above the listing price.

Timeshares, which are in some ways similar to fractional ownership as tenants-in-common, in residential neighborhoods are not allowed in Santa Barbara and many other communities because of the hotel-like behavior and commercial activity that follows. Last November, the Las Alturas home had already generated noise complaints from neighbors.

One of the owners of 1131 Las Alturas Road argued that fractional interest properties might actually be helpful the housing situation: rather than eight owners buying vacation homes in Santa Barbara, they are only taking one house off the market.

Mayor Rowse has asked the City Attorney to see if there is a way to block this type of arrangement or put an ordinance in place to manage this new type of fractional ownership. Residents have taken matters into their own hands and have placed “No Pacaso” signs around the neighborhood.

Santa Barbara County’s New \$1.4 Billion Spending Plan and Budget Update

The Santa Barbara County Board of Supervisors approved a \$1.4 billion budget for the 2022-2023 fiscal year. This marks the fourth year in a row that the budget includes no reductions in services. Approximately one-third of the budget is from state and federal funds, one-third from service charges, and one-third from growing local taxes including property tax, sales tax, and transient occupancy tax.

Funding received from the federal government will be split with \$45.2 million allocated toward health and human services and \$17.6 million to replacing the public safety radio system. Capital improvement projects are planned for the Santa Maria Health Care Center, Lompoc Health Care Center, Veteran’s Memorial Building, Cachuma Lake Recreation Area, Arroyo Burro Beach, Lookout Park, and Goleta Beach Park.

The update reported that while sales tax, transient occupancy, and property transfer tax are all higher than expected for the current fiscal year, cannabis cultivation and cannabis retail taxes are coming in at about \$10.8 million compared to the projected \$19 million.

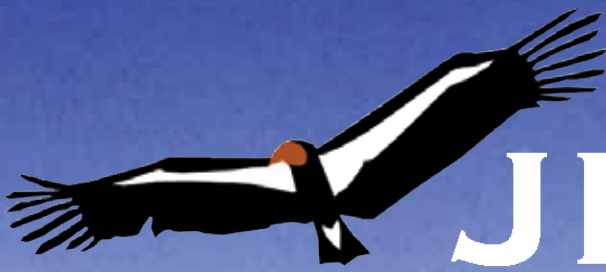
The Board of Supervisors also directed staff to develop and propose budget policy for consideration in December 2022 that addresses a long-term fiscal plan regarding overtime costs and overhire ability.

Large UCSB Housing Project Approved

The UC Regents recently approved a new 540-unit residential project on UCSB’s campus. It will be used to house university employees and will include 180 for sale townhomes ranging in size from two to four bedrooms, 360 rental apartments ranging in size from one to three bedrooms, along with retail and parking space. The project will require reconfiguration of Ocean Road along with a series of bike paths and pedestrian pathways that create the border between campus and Isla Vista.

This comes after the City of Goleta filed suit against

Continued on page 37



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Santa Barbara Happenings from page 35

the University for breaching the Long-Range Development Plan by not increasing housing while continuing to increase the student population.

Santa Barbara City Council to Move Forward with a Program on Commercial Vacancies Along State Street.

In a June meeting the council agreed to direct staff to work on a commercial vacancy ordinance to address the dozens of vacant storefronts on State Street and in the central business district. City leaders have been considering a commercial vacancy tax to encourage property owners to find companies to rent their spaces. The vacant spaces are unattractive to tourists and are sometimes magnets for members of the homeless population to loiter. It's unclear what form the program will take.

Editor's note: Get rid of the parklets and open State Street to vehicle traffic again. The "no" price parklets prevent people from seeing the commercial and retail spaces currently vacant, and the "mall" created by lack of auto traffic is a fading institution in those parts of America with good weather.

Proposal for Additional Santa Barbara Hotel Tax Revenue to Be Put Towards Subsidized Housing

Santa Barbara's City bed tax revenues are projected to bring in around \$31 million, \$4 million higher than the budgeted \$27.2 million for this fiscal plan. Rob Fredericks, executive director for City of Santa Barbara Housing Authority, is hoping to persuade City Councilmembers to set aside \$5.1 million for affordable housing.

Fredericks also proposed a 2% hotel bed tax increase in partnership with the Housing Authority, to construct affordable housing with the excess revenue. One councilmember suggested a .25% sales tax bump instead which could generate \$7 million a year in revenue, but increase costs for locals.

Santa Barbara City Council to Temporarily Halt New Hotel Development While City Tackles Housing Issues

The Santa Barbara City Council voted in favor of a draft urgency ordinance temporarily banning new hotel development until the City articulates a specific plan explaining how it will meet its regional housing needs allocation. The State of California has required the City to add 8,000 new housing units by 2031. The proposed urgency ordinance was presented by City Planner Renee Brooke who said allowing additional hotel development to

continue may make it more difficult for the City to meet its regional housing needs allocation. The ordinance would not apply to the hotels that were recently approved and/or are currently pending approval. Mayor Randy Rowse and Councilmember Alejandra Gutierrez voted against the Ordinance.

Editor's note: This may come as a surprise to State legislators, but not everyone can live in Santa Barbara. Some folks will have to live elsewhere. There is limited land available between the beach and the mountains, and the State housing requirements are forcing Santa Barbara to become an undesirable big, high-rise city like those areas of coastal Los Angeles County that people are now fleeing.

Affordable Housing Project Receives Positive Reviews

The affordable housing project located on the corner of Carrillo and Castillo Street has reached a new milestone in the process of getting the 63-unit project approved. The new project has enjoyed support from members of the Historic Landmarks Commission and is aimed at working professionals with moderate incomes. The project is still in the pre-application conceptual phase and the Housing Authority is working with local residents on the design.



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