

**SOUTH COAST HOMEOWNERS ASSOCIATION
MIDTERM REVIEW OF PENDING LEGISLATION**

May 23, 2017



The statements set forth below are provided to assist participants in following the program. They should not be interpreted as absolute statements of law. The actual application of any statute or court decision is dependent upon the facts and circumstances presented in each case.

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PENDING LEGISLATION

I. Rent Control

A. Cities and Counties Can Enact Rent Control which Limits Rental Increases.

1. Rent Control adversely impacts Landlords, Tenants and Associations.
2. Adverse Consequences of Rent Control:
 - a. Since 1979 San Francisco has had rent control.
 - b. Today San Francisco has the highest rental rates in the country.
 - d. The S.F. vacancy rate is .03% (Santa Barbara's is 1%).
 - e. Units pulled off the market / Squatters / Owner Take Backs.
 - f. No incentive to maintain units.
 - g. Landlords and tenants pay the cost to fund the San Francisco Rent Control Board.

B. Costa Hawkins Act (Civil Code section 1954.50).

1. Costa Hawkins Act currently exempts Condominiums and Planned Developments from Rent Control.
2. Costa Hawkins Act currently requires vacancy decontrol.
3. Costa Hawkins Act currently allows for removal of tenant on an owner "take back."

C. Pending Amendment to Costa Hawkins Act (Feb 2017, AB 1506).

1. Costa Hawkins Act would be completely repealed.

D. Tsunami in Waiting for Condominiums and Planned Developments:

1. If Rent Control is enacted, and Costa Hawkins Act is repealed, Common Interest Developments will be subject to Rent Control.
2. Rent Control will have an adverse impact on Common Interest Developments.

II. Mandatory Inspections

A. City of Santa Barbara is Reviewing Implementation of Annual Inspection of Rental Units for Safety and Habitability.

B. Likely Areas to be Inspected Include the Building Envelope and Mechanical Systems.

1. Waterproofing, roof, doors, and windows.
2. Sewer, gas, electrical and water lines.
3. Exterior building and safety issues (e.g. stairs & railings).

C. Annual Inspections will Create Issues for Associations.

D. Mandatory Inspections are being Challenged as Being in Violation of the California and U.S. Constitutions.

III. Just Cause Eviction Ordinance

A. Dealing with Tenants is a Reoccurring and Common Problem Experienced by Associations.

B. A Just Cause Eviction Ordinance will make it Considerably More Challenging to Evict Problem Tenants.

C. The Best Tool in a Landlord's Arsenal to Evict a Problem Tenant is the 30/60 Day Notice:

1. By using a 30 or 60 Day Notice, a Landlord may evict for any reason or no reason.
2. Absent unlawful discrimination or improper retaliation, the right to evict is absolute.

D. Just Cause Eviction Prohibits the Use of the 30 & 60 Day Notice.

E. Under a Just Cause Eviction, You can only Evict for Certain Defined Reasons.

1. Non Payment of Rent.
2. Nuisance.
3. Material breach of lease.
4. Violation of law.

F. It is Very Challenging to Evict for a Nuisance & Material Breach of Lease Not Involving Nonpayment of Rent:

G. With Just Cause Eviction, there is a Higher Probability that Associations will get stuck with Problem Tenants.

IV. Mandatory One Year Lease

A. Tenants can Demand a One-Year Lease.

B. Impact on Associations will be Minimal.

C. One Year Lease Creates a One-Sided Agreement Favoring Tenants.

V. Directors Must Address Claims of Harassment

A. Effective October 2016, Directors are required to address claims of harassment within a Common Interest Development (CFR 100.7(a)(1)(iii).

1. For purposes of this legislation, harassment is that based upon race, color, religion, national origin, sex and disability.
2. This includes harassment between occupants and harassment of Board members.

B. Prerequisites to Directors' Obligation to Investigate and Terminate Harassment:

1. Directors and/or the Association's Manager must have knowledge of the harassment; and
2. The Association must have the power to take action to terminate the harassing activity under the Association's CC&R's.

C. Where the Obligation Arises to take Action, Directors must Investigate and, if Harassment is Believed to Exist, Directors must take Action to End the Harassment.

VI. Accessory Dwelling Units / Government Code §§ 65852.2 - 65852.22

A. Owners of the residential structures in single-family and multifamily residential zones may add an Accessory or Junior Accessory Dwelling Unit so long as the structure meets the requirements of Government Code § 65852.2.

B. Will Accessory and/or Junior Accessory Dwelling Units be allowed in Common Interest Developments?