



March 8, 2017

Santa Barbara Association of REALTORS®

Ariel Calonne, City Attorney  
740 State Street,  
Suite 201  
Santa Barbara, CA 93101

RE: Consideration of Tenant Protections

Dear Mr. Calonne,

The Santa Barbara Association of REALTORS® (SBAOR) represents roughly 1,200 REALTORS® throughout the South Coast and our mission includes engaging in real estate related community issues affecting our members and/or their clients. As one of the leading organizations in the South Coast primarily focused on housing, we oppose any and all iterations of rent control except mediation.

SBAOR agrees there is a housing crisis in Santa Barbara, but any iteration of rent control is not the solution to this problem. Many economists agree that the answer to the housing crisis is more supply due to the high demand and not additional restrictions to the market. Given the City of Santa Barbara has a population of over 91,000 (as of July 1, 2015) and only 37,820 housing units (as of April 1, 2010)<sup>1</sup> it is evident that the City does not have enough supply of housing given the demand of the population. Given this supply and demand quagmire, Santa Barbara is in a unique situation in that it has several major policies to help chip away at the housing demand for housing:

- 1) Affordable Housing through the Housing Development and Preservation Program. This program promotes and facilitates rental housing for very low and low-income households and ownership housing for primarily moderate-income households. According to the City of Santa Barbara Housing Development and Preservation Program webpage, "The City has done well in creating a level of affordable housing that constitutes approximately 15% of the City's housing stock"<sup>2</sup> which is roughly 11,000 units. 8.13% of these units are for long term affordable housing, 5.78% are Shelter Plus/Section 8 Housing Choice Voucher program and 1.09% are units occupied by low-income homeowners who have received City loans and grants to repair their homes, plus the number of beds in group homes and shelters<sup>3</sup>.
- 2) Density Bonus Program. This program "allows development of a greater number of units than would normally be allowed under the existing zoning. As a trade-off, some or all of the units on the site are subject to rent restrictions or resale controls, which provide for continued long-term

---

<sup>1</sup> US Census Quick Facts Santa Barbara, CA, last visited March 7, 2017

<https://www.census.gov/quickfacts/table/PST045216/0669070,00>

<sup>2</sup> City of Santa Barbara Affordable Housing, last visited March 7, 2017

<http://www.santabarbaraca.gov/services/hhs/housing/default.asp>

<sup>3</sup> Community Development Department Administration, Housing and Human Services Division, *The City of Santa Barbara Affordable Housing Policies and Procedures (Owner Occupied, Rental and Rehabilitation/Preservation)*, (September 2014 [updated per 3/6/2015 Area Median Income]),

<http://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=17340>

Santa Barbara Association of REALTORS® | 1415 Chapala Street | Santa Barbara, CA 93101

(805) 963-3787 | (805) 966-9664 FAX | [www.sbaor.com](http://www.sbaor.com)



REALTOR® is a registered trademark that identifies a professional in real estate who subscribes to a strict code of ethics as a member of the National Association of REALTORS®

affordability to low-income renters, and to buyers who are moderate income, middle income or upper-middle income.”<sup>4</sup>

- 3) Accessory Dwelling Units (formerly Secondary Dwelling Units). The State of California recently implemented a new Accessory Dwelling Units (ADU) law in order to provide “additional rental housing... [which is] an essential component in addressing housing needs in California”<sup>5</sup>. This law “will further reduce barriers, better streamline approval and expand capacity to accommodate the development of ADU’s.”<sup>6</sup>
- 4) Condominium Conversions. This ordinance “specifies the requirements for converting existing apartments to condominiums. This ordinance has provisions relating to the affordability both of the existing apartments and the condominiums resulting from the conversion.”<sup>7</sup>
- 5) Inclusionary Housing Ordinance. This ordinance requires 15% of the newly built units of ten or more ownership units (excluding any density bonus units) be sold at prices affordable to middle-income buyers.
- 6) Housing Rehabilitation Loan Program (HRLP). This program funds rehabilitation for affordable multi-family rental units in order to preserve sage, attractive, and affordable rental housing.
- 7) Average Unit-Size Density Program. This ordinance supports “the construction of smaller, more affordable residential units near transit and within easy walking and biking distance to commercial services and parks. Increased densities and development standard incentives are allowed in most multi-family and commercial zones of the City to promote additional housing. Rental, employer-sponsored, and limited equity housing cooperative units that provide housing opportunities to the City’s workforce are especially encouraged.”<sup>8</sup>
- 8) Section 8 Housing Choice Voucher Program. “This program... [has] the tenant pay 30% of their income for rent and utilities and federal funds are paid to the landlord to make up the difference between the tenant share and the “Fair Market Rent” (FMR).<sup>9</sup>
- 9) Tenant Based Rental Assistance. This program “is a federally funded rental subsidy program to help individual households acquire permanent housing through temporary rental subsidies with or without rental security deposits and/or utility deposits.”<sup>10</sup>
- 10) Tenant Displacement Assistance Ordinance. This ordinance “applies when an application is filed with the City for a demolition, alteration, or change of use that will result in the elimination of a residential unit.”<sup>11</sup> It also requires a Notice of Intent which “explains how the ordinance applies to tenants including the entitlement to financial assistance in an amount equal to four times the median advertised rental rate or \$5,000, whichever is greater.”<sup>12</sup>

---

<sup>4</sup> *Id.*

<sup>5</sup> California Department of Housing and Community Development Accessory Dwelling Unit Memorandum, (December 2016), <http://civicaweb.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=185136>

<sup>6</sup> *Id.*

<sup>7</sup> See The City of Santa Barbara Affordable Housing Policies and Procedures (Owner Occupied, Rental and Rehabilitation/Preservation), *supra* note 3

<sup>8</sup> City of Santa Barbara AUD Incentive Program, last visited March 7, 2017, [http://www.santabarbaraca.gov/services/planning/mpe/aud\\_program.asp](http://www.santabarbaraca.gov/services/planning/mpe/aud_program.asp)

<sup>9</sup> See The City of Santa Barbara Affordable Housing Policies and Procedures (Owner Occupied, Rental and Rehabilitation/Preservation), *supra* note 3

<sup>10</sup> *Id.*

<sup>11</sup> City of Santa Barbara Tenant Displacement Assistance Ordinance Information, last visited March 7, 2017, <https://www.santabarbaraca.gov/civicax/filebank/blobdload.aspx?BlobID=17549>

<sup>12</sup> *Id.*



As you can see from above, there are a multitude of programs to encourage and protect affordable housing in the City of Santa Barbara as well as encourage new housing to be built. Instead of trying to implement some iteration of rent control, which has been opposed by economist on both the left and right, the City of Santa Barbara should look to its programs already in place and educate the public on them. The City also should look at more ways to encourage and promote new housing stock such as the Average Unit-Size Density program and the Accessory Dwelling Unit program. As the California Legislative Analyst's Office suggests "the key remedy to California's housing challenges is a substantial increase in private home building in the state's coastal urban communities. An expansion of California's housing supply would offer widespread benefits to Californians".<sup>13</sup>

The City Council will review five iterations of rent control which include mediation, mandatory lease, apartment inspections, just cause evictions, and rent control.

- 1) Mediation. SBAOR fully supports mediation. SBAOR was a staunch supporter when the Rental Housing Mediation Program (RHMP) was created in 1976. There has been at least one REALTOR® member on the RHMP board since its inception because our organization understands the importance of resolving disputes between landlords and tenants and to uphold tenant rights and responsibilities.
- 2) Mandatory Lease. A mandatory lease would require a landlord to offer a tenant a twelve-month lease and it would be at the discretion of the tenant to accept or renegotiate the length of the rental term. In the City of Santa Barbara, a City with many rental units as second homes/units, this mandatory lease would unfairly burden the owner/landlord. Several concerns with this proposal include:
  - a. Student housing – Some owners/landlords want to be able to use their property when students are not in school during the summer and with this proposal they couldn't use their own property if a twelve-month lease was required. This could also go the other way in which an owner/landlord lives in the home during the "school months", but wants to rent it out during the summer months.
  - b. Retirement housing – Many people buy homes/units in Santa Barbara in order to prepare for retirement. Although they do not currently live in the homes full time, they would like to be able to vacation in their home several times a year and a twelve-month lease would not be conducive.
  - c. Ability to rent to family members or friends - This proposal would preclude owners/landlords from being able to rent to family members or close friends who may need housing sooner than the expiration of a twelve-month lease.
  - d. Moving from current house/unit – Some people decide to move out of their current house/unit because they are considering putting it on the real estate market. They rent a house/unit themselves, but need to rent out their house/unit until they can determine what would be the best time to put their house/unit on the market. People need flexibility and not tied into a twelve-month lease if they wish to put their house/unit on the market.

---

<sup>13</sup> California Legislative Analyst's Office, *Perspectives on Helping Low-Income Californians Afford Housing*, (February 9, 2016), <http://www.lao.ca.gov/Publications/Report/3345>



- 3) Apartment Inspections. SBAOR opposes any type of governmental intrusion on private property. We are not the only ones who oppose these types of inspections. There have been multiple cases throughout the United States which have heard arguments regarding the unconstitutionality of rental inspections. In 2008, the U.S. Court of Appeals struck down part of the City of Garland, Texas rental inspection program; “The court fully understands that the City has a valid and important governmental interest in protecting the public, however, the court sees no reason why this should be done at the expense of infringing on rights guaranteed by the Fourth Amendment to the United States Constitution.”<sup>14</sup> Below is a list of additional cities throughout the United States that have repealed their rental inspection ordinances due to the threat of lawsuits or decisions by the court. This list is not exhaustive for other cities may have unpublicized rental inspection ordinances under scrutiny.
- a. Garland, TX
  - b. Park Forest, IL
  - c. Yuma, AZ
  - d. Red Wing, MN
  - e. Richardson, TX
  - f. Rochester, MI
  - g. Chesterfield County, VA
  - h. Elizabethville, PA
  - i. San Francisco, CA
  - j. Highland, CA
  - k. San Luis Obispo, CA
  - l. Portsmouth, OH
- 4) Just Cause Eviction. Like many social programs, Just Cause Eviction sounds good in theory, but when practiced there are numerous unintended consequences. Evictions are a costly and time consuming processes for property owners which can take several weeks to several months and cost several hundreds of dollars to several thousands of dollars. During this process, tenants being evicted often do physical damage to the property. For property owners, eviction is the final alternative to which they turn, not the first. When Just Cause Eviction provisions are enacted, the cost to evict a problem tenant rises dramatically. The property owner is now required to prove that “good cause” exists, which requires witnesses and additional trial time. Under these circumstances, the problem tenant’s attorney often requests a jury trial, hoping they can persuade jurors, who are less accustomed to dealing with problem tenants. In one San Francisco case, attorney’s fees exceeded \$75,000. These costs were passed on to the “good tenants” who suffer because Just Cause Eviction ordinances protect the “problem tenant” over the “good tenant.” Month-to-Month leases are also made virtually obsolete in places where “Just Cause Eviction” ordinances have been instituted. While the tenant can serve the property owner with a 30 day notice, the property owner can only terminate the tenancy if the property owner can prove “just cause” in court. And, while the just cause might very well exist, it is extremely difficult to prove this in court, particularly when the “good tenants” are scared or intimidated by going to court and testifying against the “problem tenant.” This leads to “good tenants” enduring years of inconvenience, harassment, verbal abuse or dangerous living circumstances where they live in close proximity to drug dealers, petty thieves, and lewd or

---

<sup>14</sup> Institute for Justice, *Primer on Rental Inspections*, (January 28, 2013) <http://ij.org/action-post/does-the-constitution-apply-to-renters-a-primer-on-warrantless-rental-inspections/>



offensive individuals. Yet again, rarely will the “good tenants” testify in court for fear of their safety. Instead, they will expect the property owner to handle the problem. When it is not handled, the “good tenants” are forced to leave. The worst unintended consequence of all created by “Just Cause Eviction” ordinances is when a property owner – facing several thousands of dollars in attorney’s fees and several months in uncollected rent – decides to do nothing because of this ordinance and leaves the “problem tenant” alone to harass, disturb, threaten, intimidate, or leer at neighboring tenants and neighbors, commit petty crimes, deal drugs, and engage in gang activity.

- 5) Rent Control. Rent Control has been around for more than a century in one form or another, but in today’s society rent control is effectively a price ceiling imposed by a governing entity.<sup>15</sup> There are pernicious effects of rent control and in a survey of American Economic Association economists, 93% agreed that a rent ceiling reduces the quality and quantity of available housing.<sup>16</sup>
  - a. Rent Control reduces the quantity of available housing. In a rent-regulated market without the increased rents required to attract new investment, new housing construction is limited and no long-term solution resolves the housing shortage. In other words, when a community adopts rent control, it send the market a false message, so that rent control ultimately reduces, rather than expands, the housing supply. In some cases, even existing rental housing may even be converted to other uses.<sup>17</sup> There have been several studies supporting this position and “in Berkeley and Santa Monica, California, the total supply of rental units dropped 14 percent and eight percent, respectively, between 1978 and 1990. Again, the rental supply rose in most nearby cities during the same time period.”<sup>18</sup>
  - b. Rent Control reduces the quality of available housing. Rent Control reduces the return on rental housing investments which can lead to a decline in the existing rental stock’s quality as housing providers faced with decreasing revenues may be forced to reduce the amount they invest in maintaining and repairing existing housing.<sup>19</sup> In fact, “studies of Los Angeles’ rent-controlled market are illustrative. Researchers have found that 63 percent of the benefit to consumers of lowered rents was offset by the loss of available housing because of deterioration and other disinvestment forms.”<sup>20</sup>
  - c. Rent Control reduces new construction. Rent Control forces “rents below the market rate, which reduces the profitability of rental housing. As a result, investors move their investment capital out of the rental market and into other profitable markets, resulting in less new construction in the housing market.”<sup>21</sup>
  - d. Rent Control forces the removal of long-term tenants. In general landlords want long-term tenants to ensure a steady stream of income, but if the landlords know their rent

---

<sup>15</sup> Investor Words, *Rent Control*, last visited March 7, 2017, [http://www.investorwords.com/4178/rent\\_control.html](http://www.investorwords.com/4178/rent_control.html)

<sup>16</sup> National Multifamily Housing Council, *The High Cost of Rent Control*, last visited March 7, 2017, <http://www.nmhc.org/News/The-High-Cost-of-Rent-Control/>

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Richard Arnott & Elizaveta Shevyakhova, Tenancy Rent Control and Credible Commitment in Maintenance (Sept. 2008), <http://economics.ucr.edu/papers/papers08/08-12.pdf>



will be forcibly reduced due to rent control, the landlords may evict long-term tenants in order to bump up the rent for a new tenant.

- e. Rent Control increases rent for unprotected tenants. Although difficult to prove, there is a sizable gap between a rent controlled unit and a market rate unit. "For example, the price gap between a rent-stabilized and a market-rate apartment in Manhattan is significant. In 2011, even before the recent spike in market-rent rates, rent-stabilized rates averaged \$1245 per month cheaper than market rents."<sup>22</sup>
- f. Rent Control reduces the landlord's incentive to maintain their property. When rent control limits supply and turnover, "landlords are less motivated to maintain properties in order to compete to attract tenants."<sup>23</sup>
- g. Rent Control decreases the landlord's ability to meet expenses by creating a loss of revenue and lower profits and by placing an unfair burden on landlords. The loss of revenue from a fair market value on a unit could reduce the landlord's ability to not only meet their own expenses, but also reduce the amount of money that can be spent in maintaining the property. This also brings up the question of why the private sector is burdened to provide subsidized housing to the poor and middle class. "Society should rely on broader, more equitable means of subsidizing housing for the poor".<sup>24</sup>
- h. Rent Control creates challenges to finding economical housing and could create finders fees. Trying to find a rent controlled unit in a market can be extremely difficult which can lead to people who need the units not being able to find them. It can also lead to finders fees for the rent controlled unit which "poor families, single consumers, and young adults entering the market are hit especially hard by these costs".<sup>25</sup>
- i. Rent Control distributes benefits inequitably since the rich and connected reap more benefits while the poor are at a substantial disadvantage. Even though rent control proponents justify rent control as an anti-poverty strategy, there has been evidence to the contrary in which higher income households are actually the primary beneficiaries of rent control. "A study focused on rent control in Berkeley and Santa Monica concluded that the beneficiaries of rent regulations in those two communities were "predominately white, well-educated, young professionally employed and affluent," and that rent control had substantially increased the disposable income of those tenants while worsening low-income families' situations."<sup>26</sup> It is also difficult for the poor to be able to find housing because of the decrease in the quality of maintenance of existing rental housing and the reduced access to new housing.
- j. Rent Control reduces tenant mobility. The elderly and empty nesters may stay in a rent controlled unit longer than what makes sense because they do not want to lose their subsidy. The converse is also true. Families may not move up to larger homes because they do not want to lose their subsidy. When these people do not move it does not open the units to those who really need it.

---

<sup>22</sup> Marc Santora, *Rent-Stabilized Apartments, Ever More Elusive*, N.Y. Times, July 5, 2012, available at <http://www.nytimes.com/2012/07/08/realestate/rent-stabilized-apartments-ever-more-elusive.html? r=0>

<sup>23</sup> E.H., *The Economist Explains: Do Rent Controls Work*, The Economist (Aug. 30, 2015), <http://www.economist.com/blogs/economist-explains/2015/08/economist-explains-19>

<sup>24</sup> National Multifamily Housing Council, *The High Cost of Rent Control*, *supra* note 16

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*



- k. Rent Control reduces property tax revenues. When the taxable assessed rental property value declines it results in a decline of property tax. For example, Berkeley estimates “that it has experienced a significant loss in property tax revenue due to the city’s rent control.”<sup>27</sup> A study conducted in 1988 concluded that the amount lost in property tax revenues would be sufficient to provide a monthly housing subsidy of \$250 to more than 1900 rental units. At that time, the federal government under its Section 8 program subsidized only 1600 units in Berkeley, so eliminating rent control could provide Berkeley with enough additional revenue to double the low-income housing subsidy program without increasing taxes.”<sup>28</sup>
- l. Rent Control generates significant administrative cost. Rent control requires significant cost for administration which usually includes a local government to register the properties, collect details on the properties, establish a complicated system to set rents and hear complaints and appeals, and establish enforcement and a specialized bureaucracy to monitor. In addition to money, this program also consumes the time of both the consumer and the municipality. For example, “In Santa Monica, the Rent Control Board in 1996 had a budget in excess of \$4 million a year to control rents on only 28,000 apartments.”<sup>29</sup>

As you can see from the above evidence, iterations of rent control do not work to the benefit of the community. SBAOR urges the City Council to use resources to educate the community on the existing policies regarding affordable housing and creation of housing instead of spending resources on creating an onerous and costly new bureaucratic system.

Sincerely,



David Kim  
2017 President

---

<sup>27</sup> *Id.*

<sup>28</sup> California Association of REALTORS®, Pernicious Effects of Rent Control, <http://www.car.org/media/pdf/102929/> (last visited March 7, 2017).

<sup>29</sup> National Multifamily Housing Council, *The High Cost of Rent Control*, *supra* note 16

