

SACRAMENTO REPORT
A Good Year
by Greg McConnell, Legislative Advocate

The 2005 Legislative year ended far better than it started. In the beginning of the year we faced a number of major challenges including permanent expansion of the requirement to provide 60 day notice for terminations of tenancy, new and confusing laws on discrimination, and amendments to the Ellis Act that would have forced owners to remain in business, and much, much more. Fortunately, at the end of the year, we can report that the major bills that we opposed were successfully negotiated or defeated.

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The Megan's Law bill that we reported on during the year failed passage. The proponents are developing strategies to try to revive their approach to the bill and alternatives are being considered that may have a stronger chance at passage.

It is noteworthy that no rent control bills were introduced in 2005. The rental housing industry has made it clear that the number one priority is to prevent expansion of rent control or any efforts to undermine the Costa Hawkins Rental Housing Act. We believe that our advocacy with moderate Democratic and Republican Legislators and the Governor to soundly defeat rent control measures over the past few years has been key to keeping rent control at bay. We will continue to be vigilant on this issue.

Year End Report

This is part one of a two part report on the year end status of some of the major legislation that we followed this year. Bills that were approved by the Legislature have been forwarded to the Governor for action. He has until October 8 to approve or veto bills that made it to his desk. Bills that failed passage in their policy committees were converted to two-year bills; they may be reconsidered and must be approved by their policy committees by January 13, 2006 or they will be dead for the remainder of the 2005-06 legislative session.

SB 51 (Kuehl) - Termination Notices: As introduced, the bill would have permanently extended the temporary requirement to provide a sixty day notice of termination of tenancy. The bill was met with strong and united industry opposition that asserted that the expanded notice requirement made it difficult to remove problem tenants and hurt both owners and good tenants who would be denied their right to quiet enjoyment by the anti-social conduct of troublesome tenants. The author tried to ameliorate the opposition with several amendments including a limitation on extending the longer notice period for three more years. This effort did not remove the industry's opposition because it did not address the fundamental question of how to remove bad tenants. The bill was defeated when moderate democrats and republicans joined forces and the author could not amass the required 41 votes.

In media reports, the tenant lobby has vowed to renew their efforts on this measure next year. Perhaps they will also focus on how to effectively address problem tenants. If they do not, new efforts to pass the bill will encounter the same opposition. **Year End Status** - On January 1, 2006 the law reverts to a thirty day notice for terminations of tenancies.

AB 781 (Leno) – Ellis Act: The Ellis Act prevents local governments from compelling an owner of rental property to continue in the rental housing business. In its original form, this bill would have denied protections of the Act to owners who had not owned a property for five years or more. The bill was subsequently amended to provide that an owner attempting to employ the Ellis Act must give five years notice to seniors and disabled tenants and would have limited application of an owner's right to go out of business to owners of properties in rent control communities. We have been told that the impetus for the bill is that owners in the author's district, San Francisco, are using the Ellis Act to convert buildings to tenant in common ownership

because rent control has made it unattractive to remain in the rental business. That being the case, we expect renewed attempts to amend the Ellis Act because the rent control disincentives that are chasing owners out of the rental business in San Francisco are unlikely to change in the foreseeable future. **Year End Status** - This bill is still in its original policy committee and must be approved by January 13, 2006 or it will be dead for the remainder of session.

AB 1574(Jones) – Housing Discrimination: This measure would have set up a pilot program in Sacramento allowing the local jurisdiction to enact discrimination laws “no stronger” than state law. It expressed legislative intent that this be a model for enactment of such laws by local jurisdictions throughout the state. The rental housing industry opposed the measure on the grounds that a patchwork of local discrimination laws with widely different language and interpretations would undermine California’s strong protections against discrimination and be a minefield for owners. We argued that owners and tenants must have a consistent set of standards and rules under which to operate, so that owners and tenants would know their rights and responsibilities, as is the case now under the existing statewide framework. **Year End Status** - The bill failed passage in the Senate Judiciary Committee.

AB 1400 (Laird) – Amendments to Unruh Civil Rights Act: As introduced, the measure added familial status, marital status, and sexual orientation as bases of discrimination in the Unruh Civil Rights Act—no problem so far. However, it also stated that the named bases were “illustrative” and not exhaustive. This raised the possibility that courts could interpret the law to expand it to include litigation challenging occupancy standards, the 3-1 rent to income ratio, mandatory owner participation in the Section 8 program, and a variety of other issues not specifically prohibited by the Act. The author agreed to remove the term “illustrative” when these issues were brought to his attention and we removed our opposition. **Year End Status** – Enrolled and awaiting action by the Governor.

AB 769 (Horton) – Slumlord School: This bill would have authorized cities to adopt landlord training schools for slumlords who do not abate serious violations after notice from local agencies. Governor Schwarzenegger vetoed the bill. In his veto message, he stated that: “Existing law already authorizes local housing authorities to pursue enforcement of local housing laws by landlords. In fact, a number of California cities have already implemented the very program authorized by this bill. This bill is redundant and unnecessary since it merely reaffirms current law by authorizing local enforcement agencies to seek from the courts an order mandating that a landlord of substandard housing successfully complete educational courses.” **Year End Status** – Vetoed by the Governor

AB 438 (Parra) – Megan’s Law: This bill attempted to authorize owners to use the Megan’s list to screen or evict serious registered sex offenders. The bill was defeated in the Assembly Public Safety Committee. Three key factors played a major role: 1) concerns expressed about where sex offenders would live if all owners screened and evicted them because they were on the list, 2) the removal of a member who was thought to be sympathetic to the bill shortly before the committee hearing, and 3) concerns expressed by the Attorney General on the constitutionality of using Megan’s list to screen and evict. The Assembly Public Safety Committee’s 19 page bill analysis added to the difficulty. It spoke much more about the rights of sex offenders and their families than potential victims. Allied rental housing industry groups are considering various strategies to revisit this issue next year. **Year End Status** – Failed passage.

SB 735 (Torlakson) – Trespass: Existing law allows tenant rights advocates to come onto rental property if invited by a resident of the building. This bill clarifies that a tenant advocate is not guilty of misdemeanor criminal trespass if he or she is invited onto the premises and comes during reasonable business hours and does not violate any laws while on the property. Based upon amendments to ensure that tenant access was limited to reasonable times and hours and that invitees could not disturb the peace, the industry withdrew opposition and the bill passed the legislature. **Year End Status** – Enrolled and awaiting action by the Governor.

I will report on more bills next month. All of the bills can be viewed in their entirety, along with committee analyses at www.leginfo.ca.gov.

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