

THE SACRAMENTO REPORT

Reflections and Predictions

by Greg McConnell, Legislative Advocate

Prior to writing this report, I looked over my January 2006 report. Therein, I spoke about the Governor and how at that time he appeared to be weakened by his 2005 special election losses. I wondered whether he would be able to effectively deal with the democrats who I thought would be emboldened and committed to retaking the office. The most accurate statement that I made in that report was this: *Politics, like life, has an ebb and flow. Just when one group thinks it is at the height of power, things trend downward. Arnold may have been over ambitious, but his counterparts are bound to make the same mistake. Why? Because politicians always do!* Indeed, back in January 2006 most pundits had left the Governor for dead. By November, he had staged a remarkable turn around, and now he is planning one of the biggest inauguration bashes that Sacramento has ever seen.

Many people attribute the Governor's rise from the ashes to his ability to reach out to embrace bi-partisan policies. Some say he downright co-opted the democratic platform. The big bond measures that he worked to get through are cited as an example of how he worked with leading democrats to get the bills through the Legislature and then used the issues as campaign platforms that made it possible to publicly campaign with Senate President Don Perata and Assembly Speaker Fabian Nunez while he trounced their democratic candidate for Governor. On one of the industry's key issues, he sided with tenant interests to sign the sixty day notice bill. Despite acknowledging landlord interests in a speedy process to get rid of bad tenants, he expressed greater concern about tenant relocations in the tight housing market.

So what does this mean for 2007? Will the Governor be strong and resolute in defending against anti-business/pro-regulation legislation? Or, will he continue to veto good bills like AB 2712 that would have protected owners against frivolous lawsuits when they comply with the complicated Megan's law rules on renting to registered sex offenders? Some say the answers lie in whether he is focused on governing a great state or his political future which may include a run for the United States Senate against Barbara Boxer. We will watch these developments closely.

As we look into 2007, things are very uncertain. We know that the Tenant Lobby will be setting the stage for even more ambitious regulations in the field of landlord tenant law. While it is much too early to state with any degree of certainty the exact areas that they will focus on, it is safe to bet that they will continue to try to promote their core issues which include opposition to Condo Conversions, making it more difficult for owners to Ellis under performing properties (go out of business), and looking for any opening to erode the Costa Hawkins Vacancy Decontrol law.

One hope that I have for the New Year is that the rental housing industry will come together to present a united front on major policies. Over the last few years, it has been an inharmonious band with various groups fighting each other. Our friends in the legislature who include republican members and moderate democrats have been scratching their heads as they have been lobbied by diverse landlord groups who oppose each others' legislative issues. This is something that has to stop. We can ill afford to

have an industry fighting itself when its opponents are united and supported by progressive democrats who have a strong majority in the legislature.

Updates

Sixty Day Notices

This time last year as we celebrated the defeat of SB 51 by Senator Kuehl that attempted to permanently create a sixty day notice requirement, we made the following prediction: *SB 51 which sought to extend the 60-day notice requirement was defeated last session. But guess what, I have learned that new legislation will be introduced this year to again try to pass a permanent 60-day notice requirement starting in 2007.*

That new legislation was, in fact, introduced. AB 1169 was passed by the legislature, and signed by the Governor over our objection. Therefore, effective January 1, 2007 owners must go back to giving 60 days notice for terminations of tenancy. This does not affect the 3 day notice process for non payment and bad conduct evictions. But it will require that landlords go through the unlawful detainer process and endure the extensive proof burdens contained in bad conduct evictions. We will look for legislative vehicles to lighten the load on those issues.

Towing Vehicles

Effective January 1, 2007, owners must comply with new procedures for towing illegally parked cars from their property. The industry opposed the most draconian features of the bill and we were able to get a few amendments including reductions on the penalties for violating the provisions of the law. We also were able to change the law to make it clear that owners need not wait one hour before removing vehicles that block access to and from a parking lot. We encourage larger owners of properties with parking lots to have their attorneys review the new restrictions and develop policies to ensure compliance with the law.

Escondido Immigration Law

At last, a little good news. We are pleased to report that San Diego Judge John Huston ruled in favor of a Motion for a Temporary Restraining Order to block enforcement of the Escondido law that would have imposed grave penalties on rental property owners who rent to illegal immigrants. (Please see the December 2006 report for more detail on the law.)

As we said last month, no matter how one comes down on the issue of illegal immigration, there is no justification for scapegoating property owners and making them bear the brunt of what needs to be a comprehensive policy on the issue. The idea that the law would force owners to become immigration cops at the risk of not being able to collect rent on any of their units if an illegal immigrant happens to slip in as a tenant is just downright reprehensible.

Happy New Year!

Greg McConnell is a rental housing consultant and legislative advocate. He represents and advises apartment associations, property management companies, and individual owners throughout California. For more information please visit

www.themcconnellgroup.com. © This article is copyrighted and cannot be republished without the consent of the author.