

## **Prop M Legal Challenge Looms Large for 2009**

### **Editorial comments by Noni Richen**

We on the SPOSFI Board of Directors are again forced to focus on the fallout of the November 2008 election, particularly the heinous Prop M – the “Tenant Harassment Bill” which might be more aptly termed the “Landlord’s Gag Rule”.

This ordinance is a stealth removal of civil rights guaranteed by our state and federal constitutions. We can be fined and jailed for “questionable behavior” and held responsible for treble damages, including emotional distress and punitive damages. Anyone with a “valid” interest may sue us. If they prevail in court, they may recover legal fees, but if we prevail, we’re on our own.

Naturally, we are preparing to fight this travesty in the courts. The litigation will be prepared by attorney Steven Rosenthal who has had recent success in court with a similar ordinance. He will be assisted pro bono by Zacks, Utrecht and Leadbetter.

Please dig deep to help fund our efforts. I know it gets tiresome to be asked for money for our lawsuits, but unlike other organizations, we receive no funds or direction from huge property owners and developers. This allows us to pursue what’s important to small property owners. **It is also why we were the only San Francisco property owner group to have supported Prop 98 while the others were silent because their big members depend on eminent domain to acquire some of their property and because they are not particularly affected by rent control.**

### **Prop M Lawsuit Tops SPOSFI Priorities**

We have signed an agreement to embark on litigation that is crucially important to our members and all small housing providers. At a minimum, we seek to overturn the most abusive provisions of Prop M approved by the voters last November. The voters, the majority of whom are unaffected by the new law, approved a measure that bans many acts of harassment. No problem there - harassment should never occur.

However, a great many people also voted – unknowingly - for regulations that hamper our ability to carry on simple business functions that any other businesses do as a matter of course. I say “unknowingly” (as opposed to simply failing to read the ballot) because the parts of the ordinance that are so damaging to housing providers were left out of the voters’ ballot summary. That omission is a violation of the law in itself. Once we entrust our lawsuit to the attorneys and the process formally begins, there is very little for us to do but watch and wait.

We fought vigorously against Prop M doing our best to defeat it and to educate the voting public about the nefarious nature of some of its provisions. We were not successful, so now the battle shifts to the legal front. Waging this court battle is our obligation as advocates for you. It is expensive and time-consuming, but it must be done. I hope we can continue to count on your support in this very important effort.

### **Emphasizing Our Role as Small Businesses**

On the equally important political front, we must re-new our energy to portray ourselves as we truly are, and as we should be viewed by the public and especially our Board of Supervisors: as small business owners who provide a vital product to our customers.

Clearly, many of our supervisors don't get this simple concept. Aaron Peskin, in his final act of self-aggrandizement prior to departing as President of the Board of Supervisors, proposed a number of new taxes and fees, to be considered by the voters in a special June election, and designed to offset severe budgetary problems, ***including a tax on residential utilities and a parcel tax on residential properties, both of which affect small property owners. He also proposed a tax on rent receipts, showing once again the attitude that property owners can be forced to pay a disproportionate share of the city's tax burden.*** There is no discussion of being able to pass this through to renters, no mention of a tax on other services, such as professional fees.

Many of the member letters that we send to government officials or that get printed in the local newspapers are the product of our Letter Writing Committee, headed by former SPOSFI president, Ted Loewenberg. Ted watches for issues in the news that require knowledgeable commentary, and emails members who have shown an interest in letter writing. We plan to expand our scope by posting comments after articles that appear on newspaper websites, including examiner.com and sfgate.com. If you'd like to be part of this effort, please email us at [info@smallprop.org](mailto:info@smallprop.org).

I hope you will attend our monthly meeting, as it focuses on how we can protect our hard-earned assets with appropriate mortgages and by creating wills and trusts to maximize the legacy we leave to our heirs. In addition, we'll have an update on the progress of our lawsuit against Prop. M.

Prop M, one of the egregious new laws in the long and sordid history of San Francisco Rent Control politics, must not be allowed to stand. Thanks to all those who have donated, but we want to encourage YOU to help with this crucial fight. If you have not yet donated, please do so today. Send your check payable to SPOSFI for \$100 or any amount you can afford to PO Box 170669, San Francisco, CA, 94117-0669. Thank you for your continued support!

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