

SACRAMENTO REPORT

By Greg McConnell, Legislative Advocate

The 2006 legislative session begins in earnest. The deadline for introducing new bills passed on February 24 and, as we anticipated, members of the legislature have introduced new bills that affect the rental housing industry.

In this report, we discuss new legislation introduced by Assembly Member Saldana aimed at slowing or stopping conversions of rental housing to condominiums and a bill by Senator Kuehl that puts landlords in the middle of domestic violence disputes. Over the next several months, we will discuss other bills as they work their way through the Office of Legislative Council and get set for hearing.

New Restrictions on
Converting to Condominiums

AB 2464 (Saldana)

This bill would place serious obstacles in the way of Condo Conversions. Apparently, the author believes that low and moderate income people are being displaced as landlords opt to convert rental units to condominiums. To stop or slow the pace of conversions, the bill would amend the California Environmental Quality Act to require an agency, which is considering the approval of a conversion, to demonstrate that the conversion will have no adverse impact on the environment. Under the bill, an adverse impact is defined to include condominium conversions which result in the removal of rental housing units from the supply of affordable housing in a city or county.

The bill will trigger CEQA review if the city in which the conversion is to occur has a population of over 250,000 or the county has a population of over 1,000,000, the vacancy rate is 8% or below, the city or county does not limit the number of annual conversions to fewer than 400 units, and other conditions apply. This sounds like it limits application of the law; but in fact, it will apply to conversions in every major city and county in the state.

Any developer will tell you that CEQA is one of the major obstacles to building housing in California. It gives individuals the power to file a suit and bring a development project to a halt. Quite often, CEQA lawsuits are frivolous, aimed at extorting concessions from a developer. By tying conversions to the CEQA process, the bill would give legal aid and other social justice groups a powerful weapon to stop conversions or to make them so expensive that landlords cannot convert.

The bill has many defects, but one of the most glaring is that it assumes that the removal of rental units adversely affects the supply of affordable housing. What happens when high end properties are converted? The removal of those properties does not adversely affect the supply of affordable housing. So, why doesn't the author limit the bill to the removal of low-income rental units? The answer is that few people are trying to convert those types of rental units and that kind of more measured approach would not have the desired effect of stopping landlords from being able to offer their tenants the right to buy their units. This bill will be hotly contested by landlords and realtors.

AB 2562 (Saldana)

This companion bill is aimed at clarifying the notices that must be given to tenants about their right to purchase converted units when a conversion is approved and the timing of those notices. The interesting thing about this bill is that if AB 2464 passes there will be few units converting and that will greatly limit the number of notices that will need to be given to tenants.

Domestic Violence

SB 1745 (Kuehl)

This bill is a major change in the law. It prohibits discrimination against a victim of domestic violence and imposes new duties on landlords to assist victims of domestic violence.

This bill would require a landlord of a building, if requested, to replace or reconfigure household locks upon the request of a tenant or household member who has obtained a valid protective order against a person who is also a tenant, if the requesting tenant or household member provides the landlord with a copy of the order. This bill would prohibit the landlord from providing copies of new keys to the tenant against whom the order of protection was issued. This bill would provide that the tenant against whom the protective order was issued would not be released from liability or obligations under the rental agreement under these circumstances.

The bill would allow a tenant or household member who was a victim of an act of domestic violence, sexual assault, or stalking, to terminate the rental agreement and be discharged from payment of rent for any period following the last day of the month of the quitting date, if the tenant or household member provides the landlord written proof that the tenant or household member has a valid protective order or that the tenant or household member has reported the domestic violence, sexual assault, or stalking to a qualified third party acting in his or her official capacity and the qualified third party has provided the tenant or the household member written documentation that the person is a victim of the act. The request to terminate must occur within 90 days of the act or circumstance that gave rise to the protective order. A tenant who terminates a rental agreement in this manner is entitled to return of the full deposit notwithstanding lease provisions that allow forfeiture of a deposit for early termination and subject to Section 19505.5.

This bill would amend the California Fair Employment and Housing Act to include a person's status as a victim of domestic violence, sexual assault, or stalking, within the unlawful bases for discrimination in employment and housing accommodations. The bill would make several changes to related anti-harassment and discrimination laws.

Here are some questions that immediately jump to mind when considering what would happen if this bill becomes law.

Who would be responsible for the cost of re-keying the property? Is this an expense the landlord would have to eat?

The bill states that the offending tenant is still responsible for the rent, but how realistic is it to expect payment of rent by a tenant who has been locked out?

Sometimes the victim is also an offending party. What happens in that situation? Does the landlord lock out both of the tenants? Who, then, is responsible to pay the rent?

How does the landlord get paid rent that is due, if the victim remains in the property but is not the wage earner and cannot pay the rent? In an unlawful detainer action for non payment of rent, could the victim allege that the action is barred because it amounts to discrimination?

What if the parties reconcile and then engage in renewed domestic disputes? Could the landlord then evict the tenants or would he or she be barred from doing so because that would amount to discrimination?

How do landlords protect other tenants from spill over violence that often occurs in domestic disputes?

While most people are very sympathetic to the plight of victims of domestic violence, these questions and many more that will come up as the bill is more thoroughly vetted, raise the question of what is the appropriate responsibility of landlords in these situations?

Over the next few months, we will provide detailed analysis of this measure. For now, this does not appear to be a change in law that landlords will be able to accept.

View the entire text of the bills in this report at <http://www.leginfo.ca.gov/bilinfo.html>

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