

**Sacramento Report**  
**Welcome To 2006**  
**by Greg McConnell**

Here we are at the start of a new year and the commencement of the second half of the 2005 - 06 legislative session. We anticipate a very quick start to the year and a potentially volatile session.

Several bills that were introduced and retained in their original policy committees will have to be passed by January 13 or they will be dead for the session. This includes efforts to toughen the Ellis Act and make it more difficult for owners in rent control cities to go out of business, efforts to pass Megan's Law reforms, and a host of other regulatory bills that were stalled in committees last year. (Please refer to the year end round-ups that were posted here over the past few months for more detail.)

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.

The arguments that defeated these proposals have not changed and it may seem a good bet that these bills will have the same fate in the first two weeks of 2006 that they had in 2005. But don't bet the farm. As we start 2006, we face a political environment that is substantially different than the one that existed in 2005.

Last January, Governor Schwarzenegger was riding high in the polls. His star power coupled with roaring support from the public made it appear that he was invincible. Legislators were very careful about how far to push proposals that he did not support.

That changed dramatically as the months passed. So much so, that by November, his special election proposals were all soundly defeated. He is still a star, but the democratic leadership is keenly aware that his popularity has been substantially eroded by a variety of missteps that even the Governor acknowledges were made by him and by his administration.

January 1, 2006 also marks the commencement of the election cycle for state office holders. We fully anticipate that people will position themselves for the June primary and the November elections by playing to their base constituencies. That translates into aggressive action by liberals and conservatives. Don't look for a lot of cooperation in the committees and floors of the Assembly and the Senate.

So what does this mean? Most observers, including this one, fully anticipate that the progressive caucuses will see this as an opportunity to sharpen their knives and make bold proposals. But, does that mean that property owners should be pessimistic? I think not.

The one thing that I am certain about in politics is that nothing is certain. 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 overly ambitious, but his counterparts are bound to make the same mistake. Why? Because politicians and special interest groups always do!

With what, for now, appears to be a substantially weakened Governor and perhaps an overly optimistic progressive caucus in the legislature, property owners and small businesses may not make much progress in reforming anti-business laws in the legislature in 2006, but I am cautiously optimistic that they will not lose much ground either.

#### More on Thirty Day Notices

Effective January 1, 2006, owners can go back to a thirty day notice for terminations of tenancy. 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.

This gives me an opportunity to discuss some comments made by my readers. Several of you have written to me and expressed great appreciation for changing the law back to its original form. You say that the shorter notice period is a valuable tool in getting rid of bad tenants.

Interestingly, however, a good number of readers have written back and indicated that this would not change their practices drastically. This latter group of owners consists mainly of people who operate in cities that have just cause laws. They said that they would rather negotiate an extended notice for other relief in the eviction process.

I understand both points of view. Owners do not terminate good tenancies. The only real exception to this is where a unit is being moved from rental to owner or relative occupancy. In most of these situations, these kinds of changes can be planned and owners usually work with good long term tenants to mitigate sudden hardship by granting extended notices whether they are required to or not.

However, when dealing with the anti-social tenant, owners want a swift and certain way to get rid of their problems. Sixty days is far too long. That is why many owners were very excited about the prospect of returning to a thirty day notice.

This does very little for owners who operate under just cause laws. The only time these owners can use the termination of tenancy process is for owner occupancy. If they are dealing with bad conduct, they must use the eviction process. They still must go through the trouble and expense of serving the three day notice, followed by the unlawful detainer and then get a judge or jury to agree that they have met their burden of proving that the tenant has engaged in bad conduct in breach of the rental agreement.

I think I speak for many owners here. If the tenant lobby wants to protect good tenants from the rare situation where an abusive owner terminates on a thirty day notice for no good reason, they should agree that in exchange for a longer notice, they will fix the problem of getting rid of bad tenants in just cause cities under the three day notice process.

I would be interested in your feed back on this. Let me know what you think.

#### More About Kelo and Property Rights

Quietly, the proponents of a statewide initiative to limit eminent domain actions are gaining momentum and support. Initial polling has been done, language has been drafted, and soon they will be going before the Attorney General for Ballot Title and Summary. These are preliminary steps to circulating a petition and placing the matter on the ballot.

I have spoken with the leading proponents of this matter and they tell me that they plan to tie the issue of eminent domain to other regulation that takes from one group of private owners and gives to another group of private citizens. That sounds like rent control.

I will be following these developments this year and reporting as the issue heats up.

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