

SACRAMENTO REPORT

by Greg McConnell

AB 1169 (Torrico) – Thirty Day Notices: Under current law, owners are required to give a 30 day notice to terminate a tenancy. This bill would change that requirement to a 60 day notice. The bill has the backing of the tenant lobby and many of the self described liberal and progressive members of the legislature. It is opposed by the rental housing industry which is trying to defeat it with a coalition of republican and moderate democratic members of the legislature.

For decades, the 30 day notice was deemed a reasonable time period for notice to tenants to leave their units. However, a few years ago a Sacramento landlord served hundreds of notices on renters in single family homes in the Sacramento area. This sudden action at a time when vacancies were low created a firestorm in Sacramento. The story received daily coverage in the local news and forced the legislature to adopt a temporary law that required 60 days notice. That law had a sunset provision which provided that California would return to the 30 day notice on January 1, 2006, unless the law was extended.

Last year, State Senator Kuehl introduced a bill to make the 60 day notice permanent. By then, however, the market had returned to more normal operations. Vacancies were running higher and the argument that tenants needed more time to find new housing was not as strong as it had been previously. In addition, as is often the case in Sacramento, other issues dominated the news. The furor over the mass terminations had subsided and there was little or no news coverage about tenants being displaced.

Sensing that the bill was in trouble, the proponents offered what they considered to be a major concession. They amended the bill to provide that landlords only have to give 60 day notices to tenants who have resided in their units for at least a year.

The rental housing industry did not accept the amendment and continued to oppose the bill. Ultimately, the industry rallied republicans and moderate democrats to reject the bill.

Undaunted by this significant defeat, the tenant lobby came back this year with Assemblyman Torrico's new measure to try again to make the 60 day notice a permanent feature in California law. The bill is almost identical and continues to contain the one year concession in the Kuehl measure.

The twist this year is that Assemblyman Torrico is considered a leader of the moderate democratic caucus. The obvious calculation is that his stature in the caucus will cause a break in the coalition that the rental housing industry forged last year and will cause more democrats to vote yes on the bill.

The bill was set to be heard by the Senate Judiciary Committee on June 13. The odds are that by the time you read this, it will have passed that committee and then be approved by the Senate. If that occurred, the bill will have been brought back to the Assembly where it was defeated last year. This will occur sometime after this article is published.

If the bill was approved by the Assembly, it will then move to the Governor's desk. Heretofore, we would predict a strong chance of a veto. However, given the fact that the Governor will be seeking reelection in November, no one can say for sure what he would do if the bill reaches his desk.

Megan's Law

AB 2712 (Leno) - As reported previously, there has been a major breakthrough on this important issue. Assemblyman Leno, who serves as the Chairman of the powerful Assembly Public Safety Committee, has agreed to take up the fight to clarify landlord duties and liabilities in regard to Megan's Law. AB 2712 clarifies and limits the information that landlords need to give tenants about the proximity of registered sex offenders and specifically states that no duty is created in landlords merely because they rent to sex offenders as required by the law.

As reported in many news outlets, the issue of where sex offenders will live is a daunting problem. Some argue that they should not be allowed to live near children and that landlords should be able to screen and evict sex offenders. The response to that approach is that it will drive some 35,000 sex offenders to the street. The Attorney General has also weighed in saying that using the Megan's law website to screen and evict will make the registration requirement

unconstitutional because it will amount to a permanent punishment for sex offenders even after they have served their time and completed their incarceration and probation requirements.

To be sure, AB 2712 does not resolve these issues. Nevertheless, it safeguards landlords from the unintended consequence of leaving them vulnerable to litigation for renting to sex offenders when they have no ability to use information available to them to deny housing to such persons.

The bill was heard in Senate Judiciary Committee in June. It has the support of landlords and tenants. The trial lawyers lobby has indicated that it will be neutral on the bill. Given this support and no known opposition, chances of passage are high.

The only dark cloud is whether the most vocal opponents of sex offenders will rally and argue that the bill does not go far enough. To that, I say yes. We need to further explore how to address the sex offender issue. In the meantime, owners should be protected from lawsuits where they have no discretion to use Megan's Law information to make housing decisions.

I encourage you to read AB 2712 and let your members of the legislature know how you feel about this important piece of legislation.

Eminent Domain

My little hometown of Hercules has brought national attention to itself by taking on Wal-Mart. The City Council decided that it does not want Wal-Mart to build on a site that the company owns. It denied zoning approval and requested that Wal-Mart sell the land to the city.

Wal-Mart refused. It declared its intention to pursue the right to build on the land that it owns and rejected the city's offer to buy the land. Undeterred, the City Council responded with a threat to take the property under eminent domain to which Wal-Mart said, "make my day." The retail giant has indicated that it will spend millions in litigation to defeat the proposed action and most people believe them. After all, if this can happen here, it can happen everywhere.

Many eminent domain opponents, even those who profess a disregard for the company, line up with Wal-Mart. They worry that if a city can take land from one company that it does not like, it can do so from any company it does not like.

Several legal experts seem to agree that the city may have authority to restrict development under its zoning laws, but they question the ability of a city to take land simply because they want it used differently.

I will follow-up on this story in future reports. It promises to be a major development in the eminent domain wars. View the entire text of the bills in this report at <http://www.leginfo.ca.gov/bilinfo.html>

Greg McConnell is a rental housing consultant and legislative advocate. He represents and advises apartment associations, property management companies, and individual landlords throughout California. For more information please visit www.themcconnellgroup.com. ~ This article is copyrighted and cannot be republished without the consent of the author.