

## **SACRAMENTO REPORT**

**by Greg McConnell**

### **To the Rescue on Megan's Law**

A coalition of interested stakeholders has recently drafted amendments to Megan's law which will clarify a landlord's duty regarding the use of information obtained from the Megan's Law website when making decisions about housing accommodations, and which will aid in limiting unintended liability. These amendments will be found in AB 2712 which is being authored by Assembly Member Mark Leno who serves as the Chairman of the Assembly Public Safety Committee.

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Existing law is ambiguous both as to a landlord's duty to protect tenants from sex offenders, and the amount of information a landlord must disclose to tenants regarding the proximity of a registered sex offender. One section of the Penal Code states that a person may use information gathered from the Megan's Law website to protect a person at risk. However, a different section generally prohibits the use of such information to make decisions about housing.

This ambiguity leaves the landlord open to lawsuits from both the sex offender, who is a tenant, and the tenant who may be harmed by the offender. For example, if a landlord were to use information obtained from the Megan's Law website to evict a high risk sex offender and later learned that the offender had not posed a danger, the landlord could be fined up to \$25,000 dollars and could be forced to pay damages and attorneys fees to the sex offender. However, if the landlord failed to protect a person at risk, he or she could face civil liability from an injured tenant under the legal theory that the landlord had a duty to protect the tenant from a known danger.

Similarly confusing is the requirement to provide information. The law states that landlords must inform tenants of the existence of a website that contains information about registered sex offenders so they can make informed decisions about where they choose to live. However, it does not state clearly what information, if any, a landlord must disclose about the proximity of registered sex offenders that he or she may receive from sources other than the website.

The proposed amendments address these issues in a comprehensive manner. AB 2712 will contain the following provisions:

1. Penal Code Section 290.46(l)(1) does not impose a duty on lessors to use information available on the Megan's law website to make decisions about housing accommodations.
2. Delivery of the notice to lessees or transferees of real property contained in Civil Code Section 2079.10a (a), which informs tenants of the existence of a statewide database on registered sex offenders, is the only information that a lessor or transferee is required to provide regarding the proximity of a registered sex offender.
3. No duty is created solely because a lessor rents or continues to rent to a person who is registered or is required to register under Section 290 of the Penal Code, or has been convicted of a sex offense in another state or foreign jurisdiction.

In addition to the specific amendments, AB 2712 will contain legislative intent language that states that these amendments are intended to clarify existing law, so that they will have retroactive effect.

AB 2712 does not absolve landlords of all obligations that may exist under other laws to maintain their premises. A landlord will still have a duty to act reasonably with regard to protecting the safety of tenants if he or she learns that a sex offender, while a tenant at the

property, actually engages in conduct that endangers other tenants. Under those circumstances, the landlord may have a duty to act, just as he or she might with any other kind of tenant who endangers other tenants.

**We believe that AB 2712 is a significant step forward in addressing thorny issues related to landlord obligations in regard to Megan's Law.** It will clarify that a landlord cannot be held liable just because he or she rented to someone who is registered or required to register because renting to a registered sex offender is not a breach of any duty owed to other tenants. It will also clarify that the only information the landlord must provide is to inform tenants that there is a database so they can investigate on their own and make their own decision about whether they want to live in proximity to sex offenders.

While much more work remains to be done, we think this is a good start. We will be working with a bi-partisan coalition of interested groups to pass these amendments and we look forward to a comprehensive resolution to the perplexing problem of clarifying landlord duties and obligations under Megan's Law.

#### Updates on Other Bills

**SB 1834 (Alarcon) "Ellis Act"** - We previously reported on the rental housing industry's concerns about Senator Alarcon's SB 1834. The bill would have amended the Ellis Act to require that an owner would not be allowed to take a building off the market and evict the tenants in that building unless the owner divested himself or herself of all rental property that he or she owns. We objected to the bill because it would impose great hardships on owners by forcing them to evict all of their tenants in all of their properties in order to get relief from underperforming rental properties in rent controlled cities. We also objected on the grounds that this would cause displacement of tenants in other properties that were performing well. We are pleased to report that Senator Alarcon has announced that he will drop the bill.

**SB 1745 (Kuehl) "Domestic Violence"** - Senator Kuehl has amended SB 1745, a bill which would have placed great burdens on owners in situations where there was domestic violence in a rental unit. Among other things, the bill would have required owners to lock out the perpetrator of domestic violence and allow the victim to remain in the unit. The bill also would have made major changes to civil rights and anti-discrimination laws.

While we commended the author for her willingness to help victims of domestic violence, we expressed concern that too great a burden was being placed on the owners and managers of apartment buildings. Recently, Ms Kuehl gutted her bill of the provisions that the rental housing industry found most objectionable. The bill now merely states that it is the intent of the legislature to address the concerns of victims of domestic violence.

**AB 2464 (Saldana) "Condominium Conversions"** - To stop or slow the pace of conversions of apartment buildings to condominiums, this bill would have amended 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 was 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. Based upon significant lobbying and unified industry opposition, this bill has been stalled in committee and the likelihood of its passage seems very low, for now. View the entire text of the bills in this report at <http://www.leginfo.ca.gov/bilinfo.html>.

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