

COMPREHENSIVE UPDATE ON THE EVOLVING LANDSCAPE OF TENANT PROTECTIONS



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INTRODUCTION

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- The relationship of Affirmative Furthering Fair Housing (AFFH) and Tenant Protections.
 - ▣ AFFH means taking meaningful actions to address significant disparities in housing needs.
 - ▣ Rent control as the foundational tenant protection

AFFH IN HOUSING ELEMENT LAW

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- Housing Element AFFH policies must include:
 - ▣ Outreach to include public participation.
 - ▣ Assessment of fair housing to analyze the jurisdiction's housing needs.
 - ▣ Statement of the community goals and the jurisdiction's fair housing goals.
 - ▣ Promote affirmative further fair housing.

MAJOR MILESTONES IN LANDLORD-TENANT LAW

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- Birkenfeld v. City of Berkeley (1972)
 - ▣ Regulation of residential rents upheld as legitimate use of police power
 - ▣ Landlords must receive a fair return.
 - ▣ Just Cause evictions provisions upheld
- Ellis Act (1984)
 - ▣ A landlord must have a right to exit the rental market.
 - ▣ Cities can regulate through local ordinances the process for exiting the market.
 - ▣ Cities may mitigate the impacts of withdrawal on the tenants

MAJOR MILESTONES IN LANDLORD-TENANT LAW

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- Costa-Hawkins (1995)
 - ▣ No rent control on units with certificates of occupancy issued after February, 1995.
 - ▣ Following a vacancy, landlords are allowed to charge market rents upon initial occupancy of a regulated unit.
- Tenant Protection Act (AB 1482) (2019)
 - ▣ Provides just cause eviction protection.
 - ▣ Imposes rent caps and number of rent increases per year
 - ▣ Exempts housing with a certificate of occupancy issued within the last 15 years.

ANTI-DISPLACEMENT POLICIES

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- Rental Registries.
 - ▣ Confidential information and Public Record Act requests
- Building on the Tenant Protection Act.
 - ▣ Anti-price gouging
 - ▣ Expanding tenant relocation assistance
- Limiting Causes for At-Fault Eviction.
 - ▣ Minimum rent arrears

ANTI-DISPLACEMENT POLICIES

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- Tenant Screening Ordinances.
 - ▣ Limiting landlord screening options and giving tenants a fair chance
- Prohibitions on Using Rent Setting Algorithms.
- Anti-Harassment Policies.
 - ▣ Shutting off utilities to a tenant's unit
 - ▣ Taking away services.
 - ▣ Refusing to make repairs

OTHER RELATED POLICIES

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- Mediation Programs.
- Legal or Counseling Services.
- Code Enforcement.
- Vacancy Tax.

ANTI-DISPLACEMENT AND THE AFFH

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- Promoting Access to Housing Opportunities.
 - ▣ Using rent registries and limiting landlord screening mechanisms
- Limiting Impacts of Gentrification.
 - ▣ Use of rent control and other tenant protection policies.
- Fostering Public Participation.
- Preserve Existing Affordable Housing Stock.