



**Policy Statements  
of  
The California Apartment  
Association**





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***Table of Contents***

Policy Statement 1: Rent Control .....1  
Policy Statement 2: Interest on Residential Rental Security Deposits .....2  
Policy Statement 3: Tort Reform ..... 3  
Policy Statement 4: Housing Finance for Affordable Housing ..... 4  
Policy Statement 5: Workers’ Insurance ..... 5  
Policy Statement 6: Drug-Free Workplace ..... 6  
Policy Statement 7: Commitment to Fair Housing and Equal Opportunity ..... 8  
Policy Statement 8: Community Service ..... 9  
Policy Statement 9: Preservation of Property Rights..... 10  
Policy Statement 10: Megan’s Law ..... 11  
Policy Statement 11: Rental Housing Inspection Programs ..... 13  
Policy Statement 12: Smoke-Free Housing Choice ..... 15  
Policy Statement 13: Domestic Violence ..... 17  
Policy Statement 14: Vehicle Towing From Private Property ..... 19  
Policy Statement 15: Immigration & Citizenship Status ..... 20  
Policy Statement 16: Recycling at Rental Property ..... 22  
Policy Statement 17: Federal Section 8 Housing Choice Voucher Program ... 25  
Policy Statement 18: Foreclosures and Security Deposits..... 27  
Policy Statement 19: Water Conservation ..... 28



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## **Policy Statement 1: Rent Control**

CAA is opposed to government control of rents and believes strongly that rent control is as damaging to renters as it is to rental property owners. CAA believes that the best way to ensure the existence of safe, affordable homes with stable rents is for government to recognize and harness market forces by establishing policies that encourage the construction of new housing and to support investment in existing housing.

### **Background**

In states like California, with its rapidly growing population, CAA believes rent control can be especially destructive because it discourages the construction of new housing at precisely the time it's needed most. While CAA is equally opposed to excessive rent increases, the Association firmly believes that a property owner should be allowed to produce sufficient income to accommodate the basic needs of residents at the property.

CSU Sacramento and the Sacramento Regional Research Institute conducted a study of rent control in Berkeley and Santa Monica over the past 20 years. Their findings were sobering. Although rent control is often promoted as a means of helping students, the poor, and the elderly find affordable housing, the CSUS findings indicate the impact was just the opposite.

- The supply of rental housing in Berkeley shrank by nearly 7.5 percent, while the supply of housing in Santa Monica went down even farther, by more than 8.7 percent.
- Berkeley, home to the University of California, has seen a nearly 11 percent drop in the number of college age students living there over the past 20 years, while Santa Monica, formerly a haven for UCLA students, has seen its college age student population drop more than 50 percent.
- Over the past 20 years, the number of female head of household families in Berkeley has dropped by more than 24 percent, compared to an increase of more than 18 percent in Alameda County over the same span of time, a difference of 42 percent.

CAA urges elected officials at all levels of government to oppose rent control as it is counterproductive to the best interests of all segments of society and the economic well-being of California.



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## **Policy Statement 2: Interest on Residential Rental Security Deposits**

CAA opposes any proposed mandate that rental property owners pay interest on a resident's security deposit.

### **Background**

Security deposits are already one of the most heavily regulated aspects of the landlord/tenant relationship. State law prescribes the amount that a rental property owner may collect from a tenant and the conditions under which it can be used. It requires that property owners provide estimates prior to making charges to the account and mandates that they provide receipts to tenants following completion of the work. The law forbids "non-refundable" deposits and requires prompt payment of any unused balance, while promising substantial penalties for failure to provide any of the above.

Given this complicated web of administrative requirements and the strict and expensive accounting that goes along with it, CAA believes that requiring property owners to pay interest on security deposits is an unfair burden and needlessly adds to the cost of housing. The small amount of money a tenant might receive in interest would be less than the cost of administering the account by the owner and certainly less than the cost of mediating any dispute that might arise.



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## **Policy Statement 3: Tort Reform**

CAA supports tort reform and other actions to reduce the size and scope of frivolous litigation.

### **Background**

Frivolous lawsuits raise the cost of providing housing for California families. They cost Californians billions but fail to add a single new home to California's inadequate housing stock.

Alternatives include:

- The development of a no-fault, limited award system;
- Dispute resolution through out-of-court arbitration, with punitive damage limitations;
- The abolishment of contingency fee lawsuits; and
- Statutes of limitations that require prompt filing of lawsuits.

Reforms such as these can only be brought on by acute public awareness and sustained efforts to bring costs down and to curtail unnecessary litigation. Abuses of the class action lawsuit rules have also been a factor in increased insurance costs. The ability to file class action lawsuits in any court has led to "venue shopping" by attorneys who seek a court based solely on that court's reputation for generous jury awards. Court selection should only be a function of whether or not the chosen venue is appropriate given the makeup of the class or issue considered.



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## **Policy Statement 4: Housing Finance for Affordable Housing**

CAA believes that the best and most efficient means of creating very low-, low- and moderate-income housing is through state and federal funding sources.

### **Background**

Financing of affordable housing development can come from a variety of current sources, including:

- Federal HOME Partnership for Investment Program
- Community Development Block Grant Program
- State of California Local Housing Trust Fund Program
- Community Redevelopment Agencies
- State and local bond proceeds

These loans involve repayment of residual receipts from borrowers. The main purpose of these loans is to guarantee permanent housing affordability of the properties.



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## **Policy Statement 5: Workers' Compensation Insurance**

CAA believes a healthy workers' compensation insurance program is essential for the well-being of employees, and an affordable system is essential for employers. CAA also believes that workers' compensation insurance rates should accurately reflect the risk of individual occupations.

### **Background**

The workers' compensation insurance program should not be so inefficient that it prevents employers from hiring needed workers. Simultaneously, workers should never fear that a workplace injury will leave them or their families in poverty.

For this to happen, the occupational definitions used by insurance carriers must be accurate and reasonable. For that reason, CAA opposes the occupational definitions proposed by the National Council on Compensation Insurance that would classify real estate managers as "maintenance and repair" personnel when they collect rent or show vacant apartments as part of their routine office duties. CAA believes that requiring 24-hour a-day workers' compensation coverage for on-site, resident managers who have no maintenance, community management, or other off-hours job responsibilities is unreasonable.



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## **Policy Statement 6: Drug-Free Workplace**

CAA supports efforts to create a drug-free workplace and encourages its members to subscribe to the provisions of the State and Federal Drug-Free Workplace Act.

### **Background**

Everyone involved in running a business—both employers and employees—suffers when there is workplace alcohol and drug abuse. Some costs are obvious, such as increased absences, accidents, and errors. Others, such as low morale and high illness rates, are less so, but the effects are equally harmful.

- According to the U.S. Department of Labor, 5.4 percent of workers in the real estate field currently use illicit drugs and another 4.5 percent abuse alcohol. In the past year, it is estimated that nearly 15 percent of the real estate workforce abused illicit drugs.
- Alcohol and drug abuse has been estimated to cost American businesses roughly \$81 billion in lost productivity in just one year—\$37 billion due to premature death and \$44 billion due to illness. Of these combined costs, 86 percent are attributed to drinking.
- Alcohol is the most widely abused drug among working adults. An estimated 6.2 percent of adults working full time are heavy drinkers.
- More than 60 percent of adults know someone who has reported for work under the influence of alcohol or other drugs.
- One in five workers report that they have had to work harder, redo work, cover for a co-worker, or have been put in danger or injured as a result a fellow employee’s drinking.
- Small businesses are especially vulnerable. Among current illegal drug users, 44 percent work for small businesses.





## **Policy Statement 6: Drug-Free Workplace (Cont.)**

The Federal Drug Free Workplace Act outlines the following steps that employers should take to keep their businesses drug free:

1. Publish and give a policy statement to all employees informing them that the sale, use, manufacture or distribution of alcohol or illegal substances at the workplace is prohibited, and specifying the actions that will be taken against employees who violate the policy.
2. Establish a drug-free awareness program to make employees aware of the dangers of drug abuse in the workplace.
3. Notify employees that as a condition of employment, the employee must abide by the terms of the policy statement and notify the employer, within five calendar days, if he or she is convicted of a criminal drug violation in the workplace.
4. Impose a penalty on—or require satisfactory participation in a drug abuse assistance or rehabilitation program by—any employee who is convicted of a reportable workplace drug conviction.



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## **Policy Statement 7: Commitment to Fair Housing and Equal Opportunity**

CAA members are strongly committed to the highest ethical standards in carrying out the spirit and the letter of state and federal laws prohibiting discrimination in employment and housing.

### **Background**

CAA believes no members should ever discriminate based on:

- Race, ancestry, ethnicity
- Religious beliefs
- Gender, sex
- Sexual orientation
- Marital status
- The existence of children in the household
- Source of income, as defined
- Disability, medical condition

CAA was created by leading owners, managers, and builders of rental housing to help the industry grow and prosper, and to promote the highest professional and ethical standards among its members. That dedication has never changed.

To that end, CAA has established and published a:

- Code of Ethics,
- Code for Equal Housing Opportunity
- Resident’s Bill of Rights

All members of CAA are expected to follow these guidelines in their business practices and, where possible, post them where they can be seen by employees and residents.



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## **Policy Statement 8: Community Service**

CAA believes that its members, chapters, and divisions must be active in the service of their community by lending their talents, expertise, and input to areas of public and community concern, administration, and benefit.

### **Background**

Giving back to the community is not just good citizenship, it is good business. And as leaders in their communities, CAA members can help make the neighborhoods and cities where they do business better places. How members get involved isn't as important as getting involved. Some of the ways include:

- Host an event in your community room.
- Answer phones for pledge week at your public TV station.
- Sponsor employees or residents involved in walks, bike rides, or other charitable works.
- Participate in civic organizations like Rotary or the Chamber of Commerce.
- Neighborhood beautification. Help in neighborhood clean-up and other campaigns.
- Adopt a school.

Community involvement helps CAA, benefits its members, and, most importantly, it helps the community. We support and encourage all member efforts to get involved.



## **Policy Statement 9: Preservation of Property Rights**

CAA believes that respect for private property rights is fundamental to rental property owners' ability to build and operate safe, affordable housing for California families. CAA supports legislation and regulations that provide property owners' speedy access to administrative and judicial systems at all levels - local, state and federal - to pursue Fifth Amendment takings claims or relief from other property rights violations.

### **Background**

One of the fundamental reasons for the prosperity we enjoy in the United States is the existence of laws that are widely observed by the public and effectively enforced through the courts. Because citizens can rely on the law, and with it, the protection of private property from arbitrary seizure or theft, people and businesses are free to invest their money and participate in the market without worrying that the government or anybody else will take their property away.

On the other hand, if property rights are infringed— arbitrary zoning changes, easements widened or asserted, permits unreasonably withheld or delayed—the incentive to build new housing or improve existing apartments goes away, and families who need new housing are giving limited choices.

CAA recognizes the need for all levels of government to regulate private property in order to protect the health, safety, and general welfare of its citizens. When government actions or regulations go beyond that, however, the government should be required to pay just compensation to the owner of the property.

CAA supports legislative implementation of the Fifth Amendment's guarantee of compensation when property rights are taken. Every person should have the right to acquire real property with confidence and certainty that the use or value of their property will not be wholly or substantially eliminated by governmental action at any level without just compensation or the owner's express consent.



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## Policy Statement 10: Megan’s Law

The California Apartment Association supports the original intent of Megan’s law, which was created to ensure that members of the public have adequate information about the identities and location of sex offenders who may put them and their families at risk. However, California’s Megan’s law web site has created unintended consequences that have placed residential rental property owners and managers in a difficult situation. Currently, under the state law, a person can use information from the database *only* to protect a *person at risk*.<sup>1</sup> CAA believes that the Legislature must make clear that any individual on the web site poses a threat to individuals who are legally defined as *persons at risk*. At the same time, CAA believes that the California Legislature must mandate that individual names be purged from the web site if they do not pose a risk to others. In addition, rental property owners and managers must be granted the legal authority to use information from the web site to deny a sex offender’s application for tenancy, to evict the sex offender, or to inform other residents about the sex offender in order to protect *persons at risk* at the property.

### Background

- Governor Schwarzenegger signed AB 488 last year, expanding the scope of Megan’s Law by requiring information about sex offenders to be available on the Internet.
- This easy access to the Megan’s Law registry has heightened public interest and awareness of convicted sex offenders in communities throughout California.
- Residents are discovering that their families might be living next to convicted sex offenders, including pedophiles and rapists.

### Problem

- Members of the California Apartment Association want to provide a safe living environment for their residents.
- Under California case law, an owner may be sued for failing to protect a resident from a known risk, including another resident’s dangerous propensities.

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<sup>1</sup> “Persons at risk” is defined in state law as a person “who is or may be exposed to a risk of becoming a victim of a sex offense committed by the offender.”



### Policy Statement 10: Megan’s Law (Cont.)

- Megan’s Law has given rental property owners and managers a conflicting directive. This contradiction in state law places all California rental property owners and managers in an impossible no-win situation:
  - Rental property owners/managers are prohibited from using Megan’s Law to discriminate against a registered sex offender. Effectively, if an owner or manager learns through the Megan’s Law website that an applicant or occupant is a sex offender, they cannot deny him or her housing, nor can they warn other residents based on this knowledge without the risk of being sued for discrimination or harassment.
  - From a penalty perspective, heavy fines, including a civil penalty of up to \$25,000, can be imposed upon a landlord for unlawfully using the Megan’s Law database to discriminate against or harass a sex offender.

### Recommended Solutions

- The California Apartment Association believes that the California Legislature needs to pass legislation to clarify and update housing law as it relates to the sex offender registry in order to provide rental housing owners and managers more ways to protect residents from sex offenders.
- Some suggested improvements to Megan’s Law, for example, include:
  - Develop a mechanism to trigger and mandate the prompt removal or correction of inaccurate information on the website;
  - Clarify in the law that those individuals whose names and addresses are listed on the Megan’s Law database pose a risk to persons living in residential rental properties and, therefore, rental property owners have the right to remove or deny tenancy to those sex offenders.
  - Clarify that Megan’s Law does not make a sexual registrant part of a “protected class” – thus an owner could evict or deny an application for tenancy for those sex offenders whose names and addresses are listed on the Megan’s Law database;
  - Clarify that rental housing providers must inform tenants through the rental lease of the Internet sex offender registry, that rental housing providers do not have a duty to obtain or disclose sex offender information (but, of course, must answer truthfully if asked), and that a rental housing provider cannot be sued by a sex offender if the housing provider decides to protect a person at risk by informing the person about the sex offender resident.



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## **Policy Statement 11: Rental Housing Inspection Programs**

The California Apartment Association (CAA) promotes safe housing and supports the efforts of local jurisdictions to combat the problem of substandard rental housing. CAA does not, however, support universal mandatory residential rental housing inspection ordinances that assess fees to all rental housing owners in the community. CAA believes such ordinances are unnecessarily costly to local governments, property owners, and ultimately, residents. Existing code enforcement programs should be enforced, or enhanced if necessary, to target those owners who operate substandard rental housing sites. CAA further believes punitive measures should be focused on the non-compliant housing provider and must reflect the severity of the violation cited.

### **Background**

The “one size fits all” blanket inspection program does not promote or ensure safe rental housing. CAA promotes an industry standard of quality safe rental housing. Substandard rental housing sites are the exception and should be treated as such.

CAA encourages local jurisdictions to examine and amend existing code enforcement programs. To most effectively mitigate true problems, while preserving valuable resources, a local government’s enforcement efforts should be based upon actual serious health and safety risks to occupants and the general public. Self-certification and complaint-based rental housing inspection programs provide solution-oriented alternatives that preserve precious civic resources while targeting those areas that require the most comprehensive oversight. CAA further believes that fees assessed by local governments for the enforcement of such programs should be targeted on the problem properties, not unfairly distributed to ensnare responsible property owners as well, and thereby creating a subsidy for non-compliant property owners. By focusing assessments on violators, the local jurisdiction can hold them properly accountable for their actions while providing “teeth” to their local ordinance. If the fines are significant enough, more owners may make the economic decision not to violate the ordinances. Such programs should also recognize when a property is quickly brought into compliance and reward such cooperation.



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## **Policy Statement 11: Rental Housing Inspection Programs (Cont.)**

In those jurisdictions where a rental inspection ordinance is contemplated, CAA urges a narrowly targeted focus to efficiently seek correction of housing problems that present a serious health and safety risk to occupants and the general public. At the same time, CAA believes any rental inspection program should respect the privacy rights of tenants. Tenants should receive advance written notice from housing enforcement officials prior to entry. Housing officials should only enter a rental unit when a tenant provides permission to enter or as prescribed by law.

Before adopting a labor intensive universal rental inspection program, CAA urges local jurisdictions to assess their existing ordinances and programs, as well as the fines associated with them, to determine if they may be more effectively utilized to combat substandard rental housing.

CAA also promotes industry education and pre-occupancy joint inspections by the owner with the prospective tenant of a rental unit as effective tools for improving the quality of rental housing. CAA encourages its local associations to develop effective working partnerships with local jurisdictions throughout the state. Such efforts can provide invaluable training for rental owners, property managers and maintenance employees as to how best to provide safe and secure rental housing to their tenants.





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## **Policy Statement 12: Smoke-Free Housing Choice**

CAA believes that owners and managers of residential rental property should be free to set smoking and non-smoking policies for their rental homes and communities. CAA believes that market forces are the best way to designate units and the common areas of the property for both smokers and non-smokers in residential rental housing so that all residents are able to use and enjoy their homes. CAA also believes that damage caused by tobacco smoking in the unit constitutes damage beyond reasonable normal wear and tear, and it justifies a deduction from the security deposit by the property owner to make repairs and to clean the unit.

### **Background**

Over the last decade, there has been a dramatic change in Californian’s expectations regarding exposure to environmental tobacco smoke. Recent surveys indicate that over 80 percent of renters in California prefer housing with smoke free areas. In response to member inquiries and to enable the industry to address this resident demand voluntarily, CAA has made available an Addendum for Tobacco Smoke Free Areas. This form allows certain common areas, certain units, or the entire property to be designated as smoke free.

CAA believes that restricting smoking in a lease is no different than restrictions on noise, quiet hours, pool use, pets and guests – these are all house rules that protect residents and the owner’s property. In addition, there is no constitutional “right to smoke.” According to a 1999 Legislative Counsel Opinion “Discrimination against smokers by landlords serves legitimate business interests by potentially reducing the risk of fire damage and, in turn, reducing insurance and maintenance costs.” In addition, civil rights suits in the employment context suggest that smoking is not a disability, and smokers are not a protected class.

California’s Civil Code Section 1950.5 allows an owner to collect a security deposit from a tenant in order to compensate the owner for a tenant’s default in the payment of rent or for, among other things, the repair of damages to the premises, exclusive of normal wear and tear, caused by the tenant. The owner is also authorized by law to use the deposit to pay for the cleaning of the unit upon the termination of the tenancy in order to return the unit to the same level of cleanliness that existed at the time the tenant took possession. Refurbishing the apartment of a heavy smoker for the next resident always requires more time and effort in repainting (particularly surface preparation). In many instances, carpeting, draperies, and upholstered furniture must be replaced rather than cleaned. CAA believes that these are damages to the unit that far exceed normal wear and tear.



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## **Policy Statement 12: Smoke-Free Housing Choice (Cont.)**

California's Labor Code Section 6404.5, which bars smoking in any enclosed work area, applies to enclosed common areas of apartment or condominium buildings or complexes such as lobbies, hallways, laundry rooms, stairways, elevators, and recreation rooms are all considered places of employment. CAA believes that prohibitions on smoking in other areas of residential rental properties should be part of the rental agreement rather than codified in a state or local law. This will allow property owners to develop individualized policies that are appropriate to their property and the needs of all Residents.



# Policy Statement 13: Domestic Violence

CAA believes that all tenants deserve a peaceful and quiet living environment, free from harm and violence from others. At the same time, CAA believes that victims of domestic violence must not face arbitrary discrimination from rental property owners or from their employers.

CAA believes that any zero tolerance policies that result in the loss of housing by victims of domestic violence are not appropriate. At the same time, CAA believes that rental property owners should develop policies, procedures, and rules for their rental communities that balance the needs of all tenants' safety and peaceful enjoyment of the property while taking into consideration the safety of victims of domestic violence and fair housing rights.

## Background

Domestic violence that occurs at rental housing presents a unique challenge for the rental housing industry. Domestic violence is not a private matter. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the rental community and the workplace, compromising the safety of victims, neighbors, and co-workers, resulting in tenant attrition, lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

Most often domestic violence occurs between tenants who are both signors on the same lease. While it may be appropriate for rental property owners to take action against the perpetrator of the violence, the law does not allow rental property owners to remove one resident from the unit while allowing the other to stay. Often referred to as "partial eviction," California law provides no such authority.

At the same time, federal and state laws impose a duty on rental property owners to protect tenants from known risks and mandates that owners preserve the quiet enjoyment of all residents. Victims of domestic violence, who continue to invite perpetrators back to the property, not only place themselves in harms way but create an untenable situation for the other residents.

While a zero-tolerance approach by a property owner to domestic violence is not appropriate, CAA believes that property owners and managers must maintain the flexibility to enforce house rules with respect to noise and other disturbances created by any residents.

CAA encourages rental property owners to establish a relationship with local organizations that serve victims of domestic violence. This connection will enable owners to assist domestic violence victims more readily should a problem arise. At the same time, CAA encourages education and training for property owners and their employees in order for them to understand the impacts of domestic violence on their communities.



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## **Policy Statement 13: Domestic Violence (Cont.)**

Just as federal law provides special protections for victims of domestic violence in public and subsidized housing, CAA encourages the California Legislature to explore options to help domestic violence victims, neighboring tenants, and rental housing owners deal with this complicated issue. Policies such as early lease terminations, partial evictions, and/or specific court orders to keep the perpetrator from the property should be explored.



## **Policy Statement 14: Vehicle Towing from Private Property**

The California Apartment Association believes that use of government licensed, private towing companies to remove illegally parked vehicles from the property is the most efficient manner available to protect the rights of all the parties involved. CAA believes that property owners (or their designated agents) must maintain the right to authorize the removal of illegally parked and inoperable vehicles on private rental property. At the same time, CAA believes that a tenant may initiate the removal of an illegally parked vehicle in cooperation with the property owner. CAA believes that it is reasonable to allow owners of smaller properties (less than 16 units) to remotely authorize a tow so long as the owner provides written approval to the tow company within 48 hours after the vehicle is removed.

### **Background**

Parking in rental communities is frequently at a premium, thereby creating a condition that is conducive to illegally parked vehicles.

An abandoned or illegally parked vehicle on residential rental property is a common problem for property owners and residents. Not only can these vehicles be unsightly but they often interfere with residents' own parking privileges.

In 2004, some towing companies were found to have engaged in unscrupulous towing practices that included patrolling of private lots and removing vehicles without authorization from, or in the presence of, a property owner as required by state law. As a result of these findings in the public legislative record, there was heightened state scrutiny of towing practices on private property.

The California Apartment Association worked with the State Legislature and the Governor to strike a balance between the rights of property owners and the owners of vehicles who park at the property. CAA believes these statutory clarifications in the California Vehicle Code make important strides that balance property owner, resident, and towing operator rights.



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## **Policy Statement 15: Immigration & Citizenship Status**

CAA believes that immigrants have enriched and strengthened American life and have helped make its economy strong.

CAA's membership subscribes to the Code of Equal Housing Opportunity. More specifically for this Policy Statement, CAA believes that no rental property owner can legally deny tenancy based on perceived or actual legal immigration status.

CAA will oppose any state, federal, or local law that proposes to penalize and hold rental property owners responsible to ensure that their premises are only occupied by legal immigrants. Not only do these laws raise serious concerns about their enforceability, due process, and their constitutionality, they place rental property owners in an untenable situation by requiring them to establish practices and patterns that foster discriminatory practices against prospective and existing tenants, occupants, and guests to the property.

### **Background**

Immigration laws are of international concern. Along with the important goal of national security, immigration law serves the legitimate economic, political, and social needs of the United States. Universities and research institutions, for example, along with the entire U.S. economy, benefit from foreign national students and scholars.

Immigration, however, has become a polarizing topic, locally and nationally, as some Americans have focused on perceived impacts of immigration after the devastating attacks that took place on September 11, 2001.

In response to concerns raised about housing security following September 11, 2001, the U.S. Department of Housing and Urban Development (HUD) issued guidelines regarding screening and rental procedures. The guidelines point out that the federal Fair Housing Act prohibits discrimination based on race, color, religion, sex, national origin, disability, and familial status in housing transactions. At the same time, however, HUD clarified that a rental property owner who asks housing applicants "to provide documentation of their citizenship or immigration status during the screening process would not violate the Fair Housing Act." The guidelines go on to stress that any such procedure must be uniformly applied to every applicant – not just those who appear to be from a different country.

On the belief that illegal immigrants have contributed to crime in their community, the officials in the City of Escondido, passed in 2006 a local law that held rental property owners responsible if an "illegal alien" were found at the property. The ordinance provided for severe penalties against property owners in violation of the law. If tenants were found to be illegal immigrants, landlords would be given 10 days to evict them or face suspension of their business licenses. Escondido's law came shortly after the City of Hazelton, Pennsylvania passed a similar law.



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## **Policy Statement 15: Immigration & Citizenship Status (Cont.)**

Hazelton's law classified certain immigrants as "illegal," punished landlords and employers who did business with those immigrants, and made English the official language.

In November of 2006, the San Diego County Apartment Association and the California Apartment Association filed an Amicus Brief in support of the plaintiffs' application for a temporary restraining order against the City of Escondido. Thereafter, U.S. District Judge John A. Houston did issue a temporary restraining order. In a decision not to defend its ordinance, the City of Escondido thereafter removed the law from its books.

In October of 2007, California's Governor Schwarzenegger signed into law legislation that prohibits local governments from enforcing any ordinance against rental property owners that requires them to verify the citizenship or immigration status of their applicants and residents. The California Apartment Association supported the legislation.



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## **Policy Statement 16: Recycling at Rental Property**

The California Apartment Association supports efforts to protect the environment and encourages rental property owners and managers to work with tenants and local governments to implement practical and economically feasible recycling programs in and around their communities.

In order for rental property owners to implement successful cost-effective recycling programs, CAA believes municipalities must enter into exclusive franchise agreements with private firms to include regular curbside pickup. Without such an agreement, it is extremely difficult, if not impossible, for an individual rental property owner to implement an effective recycling program. CAA further believes that municipal programs that reduce solid waste fees as materials are diverted from landfills as a result of recycling are more successful than programs that do not reduce fees.<sup>1</sup>

### **Background**

According to the Annenberg Media library, every year the United States generates approximately 230 million tons of "trash" - about 4.6 pounds per person per day. Less than one-quarter of it is recycled; the rest is incinerated or buried in landfills. Alternatively, Americans should be able to recycle more than 70 percent of that waste, which includes materials such as glass, metal, and paper. This would reduce the demand on the initial sources of these materials and eliminate potentially severe environmental, economic, and public health problems.

### **Could We Bury It?**

According to the U.S. Environmental Protection Agency, many of the country's landfills have been closed for one or both of two reasons: They were full or they were contaminating the groundwater. The water that flows beneath these landfills is our drinking water. Once groundwater is contaminated, it is extremely expensive and difficult and sometimes even impossible to clean up.

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<sup>1</sup> United States Environmental Protection Agency – Multifamily Recycling – A National Study, November 2001.





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## **Policy Statement 16: Recycling at Rental Property (Cont.)**

### **Could We Pay Someone to Take It?**

Not likely. As our population grows, former outlying areas of our cities are becoming bedroom communities, and their residents mount stiff opposition to plans for expanding existing landfills or creating new ones, even in return for some perks. And as local and state government officials cope with the costs and problems of their own waste disposal, they are less willing to import other communities' waste and the pollution it generates. So where does this leave us?<sup>1</sup>

Solid waste landfills have long-range negative environmental impacts that drain community resources. State and local governments have joined with the private sector to develop strategies to implement recycling programs in order to control and reduce the volume of waste. Recycling efforts coordinated by local governments in conjunction with property owners have proven to be the most cost effective and resource efficient.

California's Integrated Waste Management Act of 1989 required cities and counties to prepare by the year 2000, a plan and implementation schedule to reduce solid waste from local landfills by 50 percent. The law authorizes the California Integrated Waste Management Board to impose civil penalties on any municipality that fails to make a good faith effort to reduce solid waste in its landfills.

Multifamily housing is one of the final frontiers in the area of recycling. A recent study of municipal recycling programs reported that the average multifamily complex recycling program diverted only 15 percent of resident's waste from disposal through recycling. (California Integrated Waste Management Board, 2007)

CAA believes that rental property owners should implement recycling programs at their properties that are both convenient for residents and that strike an appropriate balance between the cost to the owner, the cost to the environment and to the community for failure to reduce solid waste. CAA understands that there is no single model for a successful multifamily development recycling program. Variations in building size, design, and trash disposal systems require owners to be creative when establishing recycling programs at their property.

CAA recognizes the numerous hurdles rental property owners must circumvent in order to make recycling programs work. Many older rental properties, for example, do not have sufficient space available for recycling collection containers. At the same time, because of the constant turnover of tenants at multifamily properties, communication with residents about recycling and the continual encouragement of its use is challenging at best.

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<sup>1</sup> <http://www.learner.org/exhibits/garbage/solidwaste.html>



## **Policy Statement 16: Recycling at Rental Property (Cont.)**

In an effort to address the lack of space for recycling containers at many properties, California lawmakers enacted the California Solid Waste Reuse and Recycling Access Act of 1991. That law requires new multifamily housing developments to include sufficient areas for collecting and loading recyclable materials. CAA supports such prospective requirements that strike a balance between what is desired and what is feasible.



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## **Policy Statement 17: Federal Section 8 Housing Choice Voucher Program**

CAA believes that state and federally assisted-housing programs play an important role in the provision of affordable housing for this nation. Specifically, the Section 8 Housing Choice Voucher Program provides a valuable government subsidy to bridge the gap between a low-income tenant's income and the cost of providing housing in the private market place, enabling recipients to choose where they want to live.

While CAA believes that the Federal Section 8 Housing Choice Voucher Program should remain a voluntary, non-mandated program for property owners, CAA strongly encourages its members, who have the resources, to participate in the program.

### **Background**

The federal voucher program began in the 1970's as an alternative to public housing projects, deemed to be a failed experiment. The Section 8 Program is now the single largest source of rental assistance in the country. The program is designed to bridge the gap between the cost of operating and maintaining housing units in the private market place and what low-income individuals and families can afford to pay in rent.

Today, vouchers supplement rent payments for approximately 1.7 million low-income families and individuals, making it the nation's largest housing assistance program. Through this program, recipients choose a house or an apartment available in the private market and contribute approximately 30 percent of their incomes to rent, while the federal government pays the difference, subject to a maximum fair market rent for the community. Families with vouchers can move to any community that administers a voucher program. Vouchers are distributed by a network of 2,400 local, state, and regional housing agencies.

Unfortunately, however, many property owners have declined to participate in the federal program because of actual and perceived regulatory burdens associated with the program. Participation in the Section 8 Program introduces a third party in the landlord/tenant relationship (the local housing agency) and requires a property owner to abide by federal regulations that differ from state and local laws. The vast majority of rental housing owners and operators believe that this additional third party, with its complex rules and regulations, compromises the performance and financial viability of their property. Inconsistencies across public housing agencies in the administration of the program further complicate the process. Reports have demonstrated, however, that those public housing agencies that conduct active landlord outreach and education have



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## **Policy Statement 17: Federal Section 8 Housing Choice Voucher Program (Cont.)**

a far greater participation rate than those that do not. Congress along with the United States Department of Housing and Urban Development (HUD) has worked, and continues to work, to correct some of the regulatory barriers to the Section 8 Program. Recent changes include an increase in the subsidy provided by HUD based upon local market rents, shorter term contracts (in some cases month-to-month), and the ability for property owners to utilize their own leases.

CAA encourages an ongoing dialogue between rental housing providers, HUD, and local public housing agencies in an effort to further refine and improve the Section 8 Program.

### **Sources:**

National Multi-Housing Council (April 2008) <http://www.nmhc.org>

The Urban Institute (April 2008) <http://www.urban.org/publications/900809.html>

United States Department of Housing and Urban Development (April 2008)  
<http://www.hud.gov/renting/index.cfm>



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## **Policy Statement 18: Foreclosures & Security Deposits**

CAA believes that a landlord and/or his or her successor in interest, including a bank or other mortgage holder who obtains property through foreclosure, are jointly and severally liable to account for and return any portion of the tenant's security deposit to the tenant in accordance with existing law. CAA understands the challenge that a successor in interest has in gaining information about the amount of deposit to be returned to the tenant, specifically when the property is transferred through foreclosure. CAA believes that a tenant should provide proof of the existence and the amount of a security deposit by a credible source such as a canceled check, a receipt, or a lease that demonstrates the amount of the deposit.

### **Background**

Since early 2007, the mortgage industry melt-down has generated an unprecedented number of foreclosures in California. While the greatest impact has been on owner-occupied, single family homes, some reports estimate that 20 to 25 percent of the homes facing foreclosure are tenant occupied.

Upon termination of the landlord's interest in the premises, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or the landlord's agent must, within a reasonable time, do one of the following acts, either of which shall relieve the landlord of further liability with respect to the security held:

- Transfer the portion of the security remaining after any lawful deductions made to the landlord's successor in interest. The landlord shall thereafter notify the tenant by personal delivery or by first-class mail, postage prepaid, of the transfer, of any claims made against the security, of the amount of the security deposited, and of the names of the successors in interest, their address, and their telephone number. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of the notice and sign his or her name on the landlord's copy of the notice; or
- Return the portion of the security remaining after any lawful deductions to the tenant, together with an accounting as provided by law.

Failure by the landlord to transfer the security does not mitigate the successor's liability. A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest, unless and until the successor in interest first makes restitution of the initial security or provides the tenant with an accounting as required by law.

### **Sources:**

Civil Code Section 1950.5



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## **Policy Statement 19: Water Conservation**

CAA is committed to the education of rental property owners and renters about water conservation and the responsible use of water in residential rental homes and multifamily housing.

CAA stands ready to work with state agencies, local governments, and water providers to develop practical policies and incentives that promote the responsible use, delivery, and conservation of water, including water billing allocation programs, drought resistant landscaping policies, water metering, and pricing structures that encourage water conservation.

CAA will oppose any policy that places a disproportionate burden for conservation on apartment owners and renters versus occupants of single family units.

CAA will encourage residential property owners to install water-conserving plumbing fixtures and drought resistant landscaping at their properties.

CAA believes that when renters pay for their water use, it raises their awareness about the cost of water and the importance of conservation. Where feasible, CAA believes that rental property owners should install water meters or sub-meters on individual rental units.

Where water meters or sub-meters cannot be installed due to the cost or structure of the building, CAA supports the use of responsible ratio utility billing systems (RUBS) by owners in apartment buildings. Through a RUBS program, water use in these buildings can be divided between the owners and renters and can be based on factors such as the number of fixtures, the unit size, and/or the number of occupants. CAA believes that when property owners implement ratio utility billing systems, they should include adequate disclosure to prospective and existing renters about the payment of water charges that are separate from rent.



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## **Policy Statement 19: Water Conservation (Cont.)**

### **Background**

Water – its quality and quantity - is vital for energy, land use, and maintenance of a healthy environment. Proper management of water is essential to our future economic and environmental health.

As the world's population increases, water consumption increases. Although almost 80 percent of the Earth is covered with water, only 3 percent of the planet's water resources represent fresh water, and less than 1 percent of all water is available for human consumption.

In America, the west is now the fastest growing region of the country and faces serious water challenges. The prolonged drought in the western States, coupled with population growth and the increase in demand for water necessary for energy purposes has created challenges for traditional water management approaches.

In 2003, the U.S. Department of the Interior (DOI) acknowledged that the semi-arid West faces particular challenges. In its report, [Water 2025: Preventing Crises and Conflict in the West](#), DOI concedes that "today, in some areas of the West, existing water supplies are, or will be, inadequate to meet the water demands of people, cities, farms, and the environment even under normal water supply conditions."

In California, water has historically been referred to as the State's "liquid gold." No resource is as vital to California's urban centers, agriculture, industry, recreation, and environmental preservation as its water. And no resource is as controversial.

The fundamental controversy surrounding California's water is one of distribution combined with conflicts between competing interests over the use of available supplies. Approximately 75 percent of the water supply originates in the northern third of the state, while 80 percent of the demand occurs in the southern two-thirds of the state.

For the first time in the state's history, the water supply and delivery system may not be able to meet California's growing needs. California is supporting more people with less available water. From an aging infrastructure to a growing population, California faces a complex set of problems that threaten the future of its population, its economy, and its environment.



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## **Policy Statement 19: Water Conservation (Cont.)**

California is currently facing a water shortage and will continue to do so for the foreseeable future. While California has a history of droughts, there are a number of significant differences between the current drought and those of the past, including:

- Increased regulatory restrictions in the Delta implemented to protect listed fish species, have limited when and how much water can be moved through the state's water system;
- Nine million new residents since 1990 have increased the demand for water; and
- Increased conversion of agricultural lands to higher value permanent crops, primarily orchards and vineyards, has eliminated the flexibility of changing crop patterns or fallowing lands in response to dry conditions.

Not only has California lost millions of dollars in crops, but the water shortage has contributed to housing and business project delays and job losses. As a result, communities are mandating water conservation and rationing.

By all accounts, California's water challenges won't end when its current drought ends. CAA understands that future economic growth and prosperity depends on conservation and proper water management going forward. Water conservation will continue to play an important role in the State's water-resource planning and management. The ability to increase efficient water use and to reduce water waste will have a direct impact on the amount of resources that will be available in the future.





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## **Policy Statement 19: Water Conservation (Cont.)**

### **Sources:**

United Nations Educational Scientific and Cultural Organization; Water in a Changing World; March 16, 2009;

[http://www.unesco.org/water/wwap/wwdr/wwdr3/case\\_studies/](http://www.unesco.org/water/wwap/wwdr/wwdr3/case_studies/) (July 16, 2009)

U.S. Department of Interior; Water Conservation Initiative; <http://www.usbr.gov/wci/> (July 30, 2009)

UC Berkeley Library; Liquid Gold – California’s Water;

<http://www.lib.berkeley.edu/WRCA/exhibit.html> (July 8, 2009)

Department of Water Resources, Department of Food and Agriculture; California’s Drought – Water Conditions and Strategies to Reduce Impact; Report to the Governor, March 30, 2009

Southern Nevada Water Authority; Conservation Plan – 2009-2012; May 2009;

[http://www.snwa.com/html/cons\\_plan.html](http://www.snwa.com/html/cons_plan.html) (July 28, 2009)

Natural Resources Defense Council – Energy Down the Drain – The Hidden Costs of California’s Water Supply;

<http://www.nrdc.org/water/conservation/edrain/execsum.asp> (August 2009)