



California Apartment Association

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Via E-Mail Only

December 18, 2018

Hon. Jake Mackenzie
President
Metropolitan Transportation Commission
375 Beale Street
San Francisco, California 94105

RE: CASA Compact: Position of the California Apartment Association

Dear President Mackenzie:

The California Apartment Association (CAA) recognizes California faces a significant shortage of housing and robust efforts must be taken to increase the supply of housing that is both available and affordable to residents at all income levels.

For the past 18 months, CAA has participated in the Committee to House the Bay Area (CASA) Technical Committee and recognizes the efforts by CASA are impressive — bringing together diverse stakeholders to try and forge consensus on housing solutions is significant.

The purpose of this letter is to detail CAA's vote of "neutral" or "abstain" on the CASA Compact using the established gradients of agreement voting system at the December 3, 2018 CASA Technical Committee Meeting.

Position in Brief

Based on CAA's historical positions and guiding principles, CAA cannot endorse the CASA Compact as currently drafted citing the inclusion of recommendations to impose rent control and just cause eviction via state legislation.

CAA just led the effort to defeat Proposition 10. Given the overwhelming mandate expressed by California voters against rent control this November in their rejection of Proposition 10, any efforts to impose rent control that is attempted through legislation will be met with swift opposition by CAA and rental property owners. While we respect the work of CASA and are encouraged by the proposals to address increasing housing in the Bay Area, CAA does not believe CASA is the avenue through which any rent control "compromises" should be developed.

CASA Compact Element: Emergency Rent Cap

While the CASA Compact refers to this item as "Emergency Rent Cap," it is nothing short of a proposal for state mandated rent control. While CAA supports temporary annual rent increase limits of 10% when linked to a state of emergency as defined in California Penal Code Section 396, the proposed CASA "Emergency Rent Cap" fails to define the conditions that must exist to trigger an emergency that

warrants the imposition of rent regulations via state legislation that are in many ways stricter than the anti-gouging regulations already established in state law under California Penal Code Section 396.

The CASA Compact states that an emergency rent cap would decrease “the number of households who are at risk of displacement and homelessness, decreasing the number of households who are rent burdened, and promoting tenant and community stability....Extreme rent increases can pose a particular burden for tenants who are low and fixed income.” Thus, one can logically conclude that the desired effect of this proposal is to help those tenants who are of low income; however, the proposal fails to include any form of means testing to ensure that the benefits of this rent cap and the correlating subsidy from the housing provider are targeted to those at greatest risk of displacement.

The proposal is silent on administration and enforcement other than to create yet another unfunded mandate on local or regional government. When looking at the cost to administer rent control in California cities, the combined cost to administer rent control systems in Mountain View, Richmond, Berkeley, Santa Monica, Los Angeles, Alameda, West Hollywood, and San Jose is \$51.5 million annually without even including San Francisco or Oakland.

Several members (or the organizations they represent) on the CASA Technical Committee publicly supported Proposition 10 on the November 2018 ballot, citing the need for local communities to decide what kind of rent regulations were necessary in their community. Now these same organizations are calling to usurp local control and impose their desire for rent control via the CASA Compact and state legislation.

CASA Compact Element: Just Cause Eviction

Just Cause Eviction policies require all rental property owners to list and prove in court a “cause” when terminating a tenancy. It could also prohibit a new owner from moving into his or her own property without some form of regulatory approval.

This proposal would require every city and county in the region to abide by this new requirement, even those local governments or communities that have expressly rejected it.

A just cause eviction law would lead to significantly higher rents, endless litigation, and put good tenants in danger by making it extremely difficult to remove bad tenants engaged in illegal activity. Specifically, just cause eviction laws:

- *Make it Difficult to Remove Dangerous Tenants* – By requiring an owner to list a “cause,” and prove it, this proposal makes it incredibly difficult to remove dangerous tenants involved in illegal and gang activity. In these types of situations, property owners must rely on third-party witnesses, who are often too scared to testify against the dangerous individual.
- *Void Every Fixed-Term Lease in California* – Just Cause laws prohibit property owners – of both residential and commercial property – from enforcing agreed-upon lease expiration dates unless they can prove “cause.” In effect, this proposed just cause eviction law would grant every tenant in the region a one-sided lifetime lease, which the tenant can end at any time for any reason, but which the property owner can only terminate for “cause.”
- *Bring Endless Litigation and Delay* – Just Cause Eviction laws would require a property owner to provide a “cause” when terminating ANY tenancy and would require the owner to prove and demonstrate that the “cause” was legitimate. This proposal for eviction controls offers little explanation to owners or to courts as to what constitutes a legitimate “cause.” This

recommendation could very well provide a very easy roadmap for unscrupulous tenant attorneys to delay for months, or stop altogether, all evictions.

- *Ignore That Strong Tenant Protections are Already in Place* – Current state law already has strong protections in place to protect tenants from retaliatory or discriminatory evictions. Failure to abide by these laws carry significant penalties, including actual damages, injunctive relief, and punitive damages.

It's important to understand that rental property owners proceed with an eviction only as a last resort. In California, it's too expensive and time-consuming to terminate a tenancy, and most owners would much prefer to work with a tenant to arrive at a mutually agreeable outcome. California law already provides some of the strongest tenant protections for illegal or retaliatory evictions.

If this proposed element becomes law, property owners will be less willing to take risks when it comes to marginal applicants who may not have a stellar rental history or credit record. Today many property owners are willing to take a chance on an applicant who is otherwise qualified but who has something in their past – such as an eviction when they were young, a foreclosure, a bankruptcy, or a lack of credit history because of living abroad. Property owners are willing to do this because they know that if the tenant is unable to live up to their lease obligations, there exists today a legal process to recover possession of the unit. Under just cause eviction laws, property owners will no longer be willing to go out on a limb for these riskier applicants, who are often those in the greatest need of housing.

Though the intent of this proposal is to make housing more secure for vulnerable populations, it will worsen the situation for those who are looking for housing.

Conclusion: Maintain a Focus on Housing Supply & Funding

To immediately address our regional housing shortage, CAA supports moving forward promoting the compact elements that expedite the development of housing in appropriate locations, continue conversations on creating equitable funding sources to promote housing availability, and leverage funds to be used to preserve and promote housing affordability.

Unless the rent control and just cause eviction elements are removed in their entirety, CAA cannot endorse the proposed CASA Compact and will oppose any related legislation aimed at implementing the rent control and just cause eviction elements.

Sincerely,



Joshua Howard
Senior Vice President
California Apartment Association

CC:
MTC Board of Directors
CASA Co-Chairpersons