



CALIFORNIA APARTMENT ASSOCIATION

5478 Buskirk Avenue  
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925.746-7131

April 23, 2020

Chair Candace Andersen and Supervisors  
Contra Costa County Board of Supervisors  
651 Pine Street  
Martinez, CA 94553

**Re: Rent Freeze Emergency Ordinance**

Dear Chair Andersen and Supervisors,

The California Apartment Association, Contra Costa Division (CAA Contra Costa) thanks the County for considering our comments and amendments during the Board's discussion on the emergency eviction and rent freeze moratorium ordinance. As stated in our letter dated April 21, 2020 and oral public comment, the ordinance is not consistent with state law.

This letter seeks to emphasize that the final ordinance adopted by the Board still contains provisions that are prohibited under state law. Specifically, Section 7, which states as follows:

Section 7: Moratorium on Rent Increases. An owner may not increase rent through May 31, 2020, and any subsequent extensions approved by the Board of Supervisors. A residential real property that is exempt from the rent limits imposed by Civil Code section 1947.12 is exempt from this section.

While CAA Contra Costa recognizes that the County exempted properties covered under Civil Code section 1947.12 – part of the Tenant Protection Act of 2019 commonly referred to as AB 1482 – local requirements to restrict the price of property are subject to the Costa-Hawkins Rental Housing Act, Civ. Code §§ 1954.50-1954.545 (“Costa-Hawkins”).

Simply put, Costa-Hawkins permits the landlords of properties “alienable separate from the title to any other dwelling unit” (i.e., single family homes and condominiums) and rental units for which a certificate of occupancy was issued after February 1, 1995 to raise rents without local interference. See Civ. Code § 1954.52(a). Costa-Hawkins also allows landlords of all other types of units to raise rents upon vacancy, a policy commonly known as “vacancy decontrol.” See Civ. Code § 1954.53(a).

Section 7 of the County's ordinance runs contrary to these provisions in the following ways:

1. The ordinance does not exempt all rental properties “alienable separate from the title to any other dwelling units.”
2. The ordinance does not exempt rental properties for which a certificate of occupancy was issued after February 1, 1995.
3. The ordinance does not make clear that landlords have the right to raise the rent upon the re-rental of a vacant unit.



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CAA Contra Costa recognizes that the County sought to comply with state law by exempting those units that are exempt from AB 1482. However, this is not sufficient for compliance. AB 1482 directly limits rent increases on certain units that would otherwise be totally exempt from regulation under Costa-Hawkins, but it does so as a matter of state law. AB 1482 does not give local governments any greater power to regulate rent increases than they had under Costa-Hawkins itself. In fact, AB 1482 is explicit about this fact. See Civ. Code § 1947.12(k)(1) & (2). Thus, AB 1482 does not authorize Section 7 of the ordinance.

In view of the foregoing, CAA asks that you amend Section 7 of the ordinance to comply with state law – specifically, Costa-Hawkins – by exempting rental properties “alienable separate from the title to any other dwelling units” and those with a certificate of occupancy that was issued after February 1, 1995, and making clear that Section 7 does not interfere with a landlord’s ability to set the rental rate upon the re-rental of a vacant unit.

Sincerely,

A handwritten signature in blue ink that reads "Rhovy Lyn Antonio".

Rhovy Lyn Antonio  
Vice President of Public Affairs  
California Apartment Association