



Housing Update No. 73 September 5, 2012

Legislature Closes Out Session With Housing Bill Action



The chambers of the Senate (pictured) and Assembly emptied out in the wee hours of Saturday morning, closing down the 2011-12 session. The Governor now has until September 30th to sign or veto bills. Important bills were passed regarding redevelopment, foreclosures, and state housing programs. See the [California legislative section below](#) for details.

Western Center/CRLA Foundation legislative meetings are coming up. Watch for announcements regarding our annual fall legislative meetings, which will be held in early to mid-October.

Conferences, Trainings, and Webinars

[Administering Housing Obligations in the Post-Redevelopment World](#)

September 18 • Webinar

Presented by the California Redevelopment Association and the California Association for Local Economic Development, the webinar will focus on administration and obligations of Housing Successors. Topics include: (1) new and amended requirements of Housing Successors under AB 1484; (2) issues and outcomes from DOF's review of housing schedules submitted August 1; (3) the due diligence review of housing assets and obligations by selected accountants; and (4) limitations on and expenditures of monies in the new Low- and Moderate-Income Housing Asset Fund.

[Redevelopment After AB 26: What's the Impact and How Are Legal Services Programs Involved?](#)

September 19, 10am - 12n • Call-In or in person at Public Counsel, 610 S. Ardmore Ave., Los Angeles

Must register by September 14! Please join us for a free working discussion with others in legal services on the post-dissolution impact of California's redevelopment agencies and how legal services programs are responding. 1.5 hours MCLE. Lunch provided by Insight Center afterward. To register or for more info, contact Brad Caftel with the Insight Center at bcaftel@insightcced.org or (510) 251-2600 x109. Presented by the Insight Center, Public Counsel, Public Interest Law Project, and Western Center.

[Housing Law Overview - Benchmark Institute](#)

September 20-21 • San Francisco

This 2-day training is geared toward legal services attorneys and advocates. It will present key strategies for producing and preserving housing, and protecting individual rights in public, subsidized, and private housing. It will also focus on defending unlawful detainer actions, including these key issues: parties, notice, rent, security deposits, discrimination, habitability, and retaliation. 15 hours MCLE.

[LAAC Armchair Training: Litigation Basics for Legal Secretaries and Paralegals](#)

September 26 • Webinar

This workshop presents fundamental concepts and procedures of civil litigation with emphasis on the legal services legal assistant's roles. Topics include pretrial and trial phases of litigation and tips for document and deadline management. Presented by Kyra Kazantzis, Law Foundation of Silicon Valley.

[LAAC Armchair Training: Senior Issues- Targeting Legal Services to Older Persons in Greatest Social or Economic Need](#)

September 27 • Webinar

Presented by Penelope A. Hommel, The Center for Social Gerontology, and Gerald A. McIntyre, National Senior Citizens Law Center.

[Affirmative Litigation Training](#)

October 1-19 (online) • October 23-25 (in person - White Plains, NY)

This comprehensive training is offered through a combination of web-based and in-person activities. It provides a comprehensive introduction to the process of prosecuting a complex affirmative case in federal or state court. It includes a mix of interactive sessions, webinars and multi-media lectures on the substantive law of claim justiciability, as well as practical exercises on discovery, complaint drafting, motion practice and emergency relief.

[Conducting and Litigating Fair Housing Audits](#)

October 4 • Oakland

This **free** training (including free lunch and continental breakfast) provided by Bay Area Legal Aid includes: (1) how to design and conduct a successful audit with discussion of site selection, tester preparation, and reporting, as well as analyzing test results for violations and suggestions for follow-up; and (2) how to litigate discrimination discovered in an audit, including a discussion of best practices from actual litigated cases and recommendations from leading experts in fair housing. 5 hours MCLE. Presented by Anne Houghtaling, Executive Director of the HOPE Fair Housing Center in Chicago, and Scott Chang, Associate at Relman, Dane, and Colfax.

[College of Advocacy - Benchmark Institute](#)

October 19-26 • Los Gatos

This week-long training in the beautiful Santa Cruz mountains provides lawyers, advocates and legal assistants with a unique opportunity to become part of a close and committed legal community working together to effectively represent low-income people and their communities. The College offers diverse substantive and skills training, specifically geared toward developing the extraordinary competence, caring and commitment necessary to helping our clients. 51 hours MCLE, including 1 hour of elimination of bias.

[Train the Trainers](#)

October 25-26 • San Francisco

Applications Due September 15! Practising Law Institute and the State Bar's Standing Committee on the Delivery of Legal Services are sponsoring a **free** training to increase the capacity of IOLTA-funded organizations to train pro bono attorneys. Presenter David Cruickshank is a nationally-known trainer who has conducted "train the trainers" for law school faculty, legal aid attorneys and public defenders. The training is designed for attorneys whose job includes training of pro bono attorneys. Attendees must commit to presenting a statewide online training during the upcoming year. For more information, please contact Sharon Ngim at sharon.ngim@calbar.ca.gov or (415) 538-2267.

Rural Housing Summit

October 25-26 • Asilomar Conference Center, Pacific Grove

This conference brings together housers and planners to examine rural issues and develop a strategic action plan for the upcoming year and beyond. Participants will explore and identify opportunities to improve the living conditions of rural California families.

Consumer Rights Advocacy for Domestic Violence Survivors

October 25 • Seattle, WA

Consumer advocacy can be powerful tool for achieving economic security for survivors, who may face collection actions for debt incurred or coerced by their abusers, credit damage, risk of identity theft and homelessness, and other financial difficulties as a result of abuse. This one-day intensive training is presented in conjunction with the National Consumer Law Center's annual conference. Workshop topics include: Housing Rights and Foreclosure Defense for Survivors.

Superior Court Boot Camp

October 25-26 • Los Angeles

Motion and trial practice in Superior Court. Learn from judges, staff attorneys and expert litigators. Presented by Pincus Professional Education. 9 hours MCLE; partial scholarships available for nonprofit attorneys.

LAAC Traveling Training

November 1-2 • Riverside

Save the dates! Check LAAC's website for more info as it becomes available, or email Patrick Fodell at pfodell@laaconline.org.

Litigation and Local Advocacy

Annual inspection ordinance upheld

Griffith v. City of Santa Cruz, 207 Cal.App.4th 982 (2012)

A city ordinance may require residential landlords to submit to annual inspections, the Court of Appeal has held. The court concluded that the ordinance was not preempted by state law. Nor did it violate the right to privacy (tenants may refuse the inspection); equal protection; or state constitutional prohibitions against additional property taxes not approved by voters.

County may rely on resident survey to nix mobile home conversion

Goldstone v. County of Santa Cruz, 207 Cal.App.4th 1038 (2012)

Elections have consequences, the Court of Appeal has concluded, particularly when the vote is 119-2. By that margin, the mostly low-income residents of a mobilehome park, when surveyed, opposed conversion of the park from rental to condominiums. The Court of Appeal held that a county could take into account the results of the survey in rejecting the conversion, as permitted by Government Code §66427.5(d), and did not have to approve the conversion even though the park owner had otherwise complied with the statute.

Insurance does not cover intentional habitability violations, Court of Appeal holds

Axis Surplus Ins. Co. v. Reinoso, 208 Cal.App.4th 181 (2012)

When landlords intentionally permit uninhabitable conditions and are successfully sued, the landlords, not their insurance companies, must bear the costs, the Court of Appeal has held. The court upheld a judgment for an insurance company against the landlords for reimbursement of \$2.1 million the insurer had paid to settle tenants' lawsuit against the landlords.

Court of Appeal holds loan servicer may bring judicial foreclosure action

[*Arabia v. BAC Home Loans Servicing, L.P.*](#), ___ Cal.App.4th ___, 2012 WL 3264380

A loan servicer may bring a judicial foreclosure action if the lender assigns it the right to do so, the Court of Appeal has held. Such an action does not violate Code of Civil Procedure §725a, the court ruled. The court drew distinctions between judicial and non-judicial foreclosure, reasoning that non-judicial foreclosures (the vast majority of foreclosures in California) must adhere to stricter standards because of lack of judicial involvement.

Tenant awarded damages for eviction in violation of PTFA

[*U.S. Bank, N.A. v. Love*](#), San Mateo Super. Ct. No. Civ. CLJ 201704

A tenant was awarded \$112,986 plus attorneys' fees against a bank which locked her out and obtained an erroneous unlawful detainer judgment in violation of federal law protecting tenants in foreclosed properties.

When the bank took over the house where the tenant lived, her lease still had ten months plus a week remaining. The Protecting Tenants at Foreclosure Act (PTFA), Pub. L. 111-22, §§701-04, states that parties purchasing foreclosed properties take subject to the rights of tenants at the property who have existing bona fide leases. Nonetheless, the bank locked the tenant out of the property and only permitted her to remove some of her personal possessions. The bank then brought an unlawful detainer action, which was successful. The tenant appealed, and the Appellate Division reversed and remanded.

On remand, the trial court (different judicial officer) awarded damages under Code of Civil Procedure §908, which permits courts to award restitution after a judgment is reversed. The court held that §908 does not permit damages for emotional distress, which would have been huge in this case. But the court awarded restitution for the value of the rental, moving and interim housing expenses, lost property, and the lost right to renew the lease. The court also awarded attorneys' fees based on a lease provision and its inherent powers under §908.

California State Legislation and Administrative Actions

Housing bills sent to the Governor

The 2011-12 legislative session ended early Saturday morning. A number of notable housing bills were sent to the Governor to sign or veto by September 30. More have already been signed into law. Watch for our full report on the session after the Governor takes action in next month's *Housing Update*. It was a busy year for housing advocates, including Western Center's Brian Augusta (shown here discussing late amendments to a bill on the last day of session, outside the Senate chamber).



Among the housing bill highlights:

- **Redevelopment:** Housing advocates were able to secure changes in [AB 1484](#), the redevelopment dissolution clean-up bill, making clear that redevelopment housing obligations survive and continue. The bill as enacted: (1) Clarifies that successor housing agencies must follow the Community Redevelopment Law in carrying out their duties; (2) Protects unencumbered housing funds derived from the sale of bonds; (3) Requires repayment of various past loans from agency Low-Mod Housing Funds; and (4) Creates a new source of money for housing by directing that 20% of funds from repayments of loans between the city/county and the former agency must be directed to housing. In addition, [AB 345](#), co-sponsored by Western Center and CRLA Foundation, was sent to the Governor. It would

require that 25% portions of the housing funds be spent each for extremely-low, very-low, and low-income households, as well as a cap on certain administrative costs.

Meanwhile, no less than 3 different schemes for what's being called "Redevelopment 2.0" were also sent to the Governor. [SB 214](#) would remove the two-thirds voter approval requirement to form an Infrastructure Finance District (IFDs), which like redevelopment uses property tax increases (aka "tax increment") to fund its activities. (The vote requirement is seen as the block to forming IFDs.) [SB 1156](#) would allow the creation of new agencies (with no voter requirement either) to use tax increment to help create sustainable communities under SB 375. [AB 2144](#) would also authorize new "infrastructure and revitalization districts," patterned on IFDs, but reduce the voter requirement to 55%.

- **State Housing Programs/Finance:** [SB 1220](#), which would have established a state permanent source for housing funds via a \$75 fee to record most real property documents, fell 2 votes short in the Senate on a party-line vote. A new bill will be introduced next year. Governmental reorganization was in the air this year in Sacramento. When the dust settled, CalHFA was folded into the Department of Housing, which itself became part of the new Business, Consumer Affairs, and Housing Agency. The Fair Employment and Housing Commission was abolished; its functions merged into a supposedly separate division of the Department of Fair Employment and Housing. Also, funds in several undersubscribed or dormant HCD programs were transferred to other HCD programs.

- **Homeowner Foreclosures:** Two identical bills ([SB 900](#) and [AB 278](#)) were signed into law. The bills: (1) Ban "dual track" foreclosures (i.e., banks must render a decision on a loan modification application before starting a foreclosure); (2) Give homeowners a private right of action for injunctive relief and damages; (3) establish civil penalties for recording or filing multiple unverified documents; and (4) require a single point of contact for borrowers.

The national mortgage settlement earmarked \$410M to the Attorney General's office for foreclosure mitigation, a portion of which could have been used for legal assistance. However, the Governor's budget directed that the money be used to fund existing positions at the Department of Justice.

- **Landlord-Tenant:** Three foreclosure-related bills were sent to the Governor: [AB 2610](#) would require a 90-day notice under state law for all tenants following a foreclosure. Longer fixed term leases must be honored, unless the landlord can show that the rent paid is substantially below-market. Also, tenants may bring a right to possession claim at any time, regardless of whether a claim form was served or not. [AB 1953](#) would prevent a landlord or bank from demanding months of back rent on a three-day notice (though tenants would still be liable in small claims or other courts). [SB 1191](#) would require owners of 1-4 unit buildings in foreclosure to notify prospective tenants of that fact.

Also before the Governor: [AB 2521](#), which would allow tenants 48 hours after ending the tenancy to collect property left behind without penalty, while also increasing the amount of abandoned property a landlord may keep without a public sale to \$700; [SB 744](#), an industry bill which would allow water submeter manufacturers to self-certify the accuracy of the meters, which are used in multi-family rentals and mobilehome parks; and [SB 1055](#), co-sponsored by Western Center and CES, which would prohibit landlords from requiring online rent payments or payments through automatic deductions.

- **Mobilehomes:** [AB 317](#), which would have drastically rolled back mobilehome park rent control protections, was successfully resisted by housing advocates and was amended to

become a benign bill. Two bills before the Governor: [AB 2150](#) would require a plain-language summary of mobilehome park rights and responsibilities to be distributed to residents each year; and [AB 1938](#), which would expand the existing prohibition on park management to pass through various fines, fees, or damages assessed by a court for violations of the Mobilehome Residency Law to also cover violations of the Mobilehome Park Act and amounts assessed by enforcement agencies.

[HCD releases draft housing element update guidance](#) - comments due September 17!

From Mike Rawson, Director, Public Interest Law Project: "The [draft](#) includes two sections: an initial review checklist and a 'streamlining' update system. HCD convened a Housing Element Focus Group, comprised of housing advocates, local government planners and attorneys and HCD staff, to review and comment. The role of the housing advocates on the Focus Group, while understanding that HCD's staff reductions were huge, is to ensure that all elements continued to receive the statutorily required review for compliance with all provisions of the Housing Element Law. During the Focus Group meetings, HCD agreed that was its goal as well, but that it also emphasized it needed to find away to adequately review hundreds of housing elements with a staff reduced by more than half.

"While the advocates have won many revisions to the initial department draft, there are still areas that need improvement, and almost certainly we will have missed some things. So your input is critical: any comments received by September 17 will be brought to the next working group meeting.

"The Streamlined Update is only available to jurisdictions with current elements approved by HCD. It allows those communities to submit existing elements with redlining for all the required data, analysis, policy and program updates. The concept is that this format will save the jurisdiction time and money, allow HCD to focus its review on the redlined portions, and likewise expedite review. We need to make sure that all updates required by the statute are included, and that all provisions of the Housing Element statutes receive complete review."

Mike will be sending out more info shortly. In the meantime, you may contact him at mrawson@pilpca.org, or (510) 891-9794 ext. 145.

HCD releases housing element technical assistance papers

Topics and links:

- [Memo](#) on recent amendments to the Adequate Site Alternative provisions. HCD also published a [revised checklist](#).
- The [Memo re Persons with Developmental Disabilities](#) (SB 812) covers new requirements to the special needs analysis requirements.
- The [Memo re Default Density Standard Option - 2010 Census Update](#) provides updated default density option standards based on the 2010 Census population figures pursuant to Government Code Section 65583.2(c)(3)(B).

Publications

[What Can We Learn about the Low Income Housing Tax Credit Program by Looking at the Tenants?](#), O'Regan *et al.*

This report describes the incomes and rent burdens of tenants living in Low Income Housing

Tax Credit (LIHTC) properties, the first time this type of analysis has been conducted on the LIHTC program. Findings include: 42% of LIHTC tenants have a rent burden between 31% to 50%, while 17% (and 57% of extremely-low-income-households) pay over half of their income on housing costs.

Employment Announcements

[Staff Attorney - Eviction Defense Center Legal Aid Foundation of Los Angeles](#)

This position is available now. Résumés until the position is filled - however, the sooner the better. Examples of duties: Litigate eviction cases and more complex housing cases; Interview and counsel clients affected by housing problems; Participate in clinics and other community outreach projects; And be part of a team of eviction attorneys working on a state-wide pilot project.

[Sustainable Housing Policy Manager California Housing Partnership Corporation](#)

CHPC seeks a full time Sustainable Housing Policy Manager to advance federal and state policy and program changes to (1) increase the effectiveness of existing low income energy efficiency and housing funding programs, and (2) increase low income multifamily rental housing owners' and tenants' access to energy efficiency funding and services. The position is part of a team that will develop and implement policy strategies, identify and outreach to stakeholders with common interests and to educate policy makers about the importance of investing in and preserving low income multifamily rental housing.

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in the courts, counties and capital
to secure housing, healthcare and a strong safety net
for low-income Californians.