



Housing Update No. 80

April 2014

Save the Dates



Western Center Housing Task Force

May 30, 2014
Fresno, CA

Tentative Agenda:

State & Federal Legislative Updates
Issues Roundtable
Lunch

Housing Element Training (Deb Collins, PILP
and Lynn Martinez, Western Center)

**Western Center and CRLAF
Housing Policy Summit**
November 6-7, 2014
Sacramento, CA



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Litigation and Local Advocacy

City can't be sued for failing to inform buyers of affordability restrictions

NIVO 1, LLC v. Antunez, 223 Cal.App.4th 1081 (2014)

A city may not be sued for damages for failing to warn a prospective buyer that a house is subject to affordability restrictions, the Court of Appeal has held. The court held that the Density Bonus Law (Gov. Code §65580) did not impose mandatory duties on cities to

inform buyers about such restrictions.

Landlord misconduct not protected by First Amendment, Court of Appeal holds
Moriarty v. Laramar Mgmt. Corp., 224 Cal. App. 4th 125, 128(2014)

A landlord's alleged misconduct, including failing to make needed repairs and harassing the tenant, did not constitute First Amendment activity protected by the anti-SLAPP statute (Code Civ. Proc. §425.16), the Court of Appeal has held. You get the idea that the author of the opinion, Justice James Richman, may have seen this before:

Another appeal in an anti-SLAPP case. Another appeal by a defendant whose anti-SLAPP motion failed below. Another appeal that, assuming it has no merit, will result in an inordinate delay of the plaintiff's case and cause him to incur more unnecessary attorney fees. . . . And no merit it has. We thus affirm, concluding, as did the trial court, that plaintiff's lawsuit is not based on protected activity.

Supreme Court depublishes opinion holding that warranty of habitability only applies to tenants who know they are injured

Thanks to a strong letter-writing campaign by legal services attorneys, the California Supreme Court depublished *Hendleman v. Los Altos Apartments, L.P.*, previously reported at 218 Cal. App. 4th 1380 (2013). The opinion had held that the warranty of habitability did not apply in favor of tenants who didn't know they had been injured, and made bad law as well on class actions and the Los Angeles REAP program.

Federal Court of Appeals Adopts HUD's Disparate Impact Rule Standard

Inclusive Communities Project v. Texas Dep't of Housing and Community Affairs, ___ F.3d ___, 2014 WL 1257127 (5th Cir. Mar. 24, 2014).

The Fifth Circuit became the first federal Court of Appeals to adopt the standards of HUD's Disparate Impact Rule for fair housing cases. The Court remanded the case so that the district court could apply the Rule's disparate impact standard in this case challenging a state housing finance agency's siting of non-elderly tax credit housing in predominantly minority communities.

PTFA preempts state law and may be enforced in state court, Sixth Circuit holds
Mik v. Federal Home Loan Mortgage Corp., 743 F.3d 149 (6th Cir. 2014).

Under the Protecting Tenants at Foreclosure Act, bona fide leases survive foreclosure, the U.S. Court of Appeals for the Sixth Circuit has held. Though the PTFA does not confer a private right of action, tenants may allege violation of the PTFA in a wrongful eviction action or other suit based on state law, the court held. In so ruling, the court joined the California Court of Appeal, which recently reached the same conclusions in *Nativi v. Deutsche Bank*, 223 Cal.App.4th 261 (2014).

California State Legislation and Administrative Action

Get our [Legislative Update](#) attachment for summaries and analyses of important bills, and our [spreadsheet](#) for a brief synopsis of all the approximately 150 housing bills currently active in Sacramento. A few highlights (with more details in the [Update](#)):

Permanent Source: The indictments and conviction of three state senators have thrown a monkey wrench into the hopes for getting the bill to create a dedicated, permanent state source of funding for affordable housing passed this year. All three senators remain in office, but are suspended and unable to vote or participate, pending outcome of their trials and appeals. Their votes would almost certainly be needed to pass the bill, which requires a two-thirds majority.

Landlord-Tenant: Two bills were introduced to curb "Ellis Act" evictions and displacement in San Francisco. Another bill moving forward would allow code enforcement to order an owner to abate substandard conditions causing a pest infestation, as well as the infestation itself. Meanwhile, industry groups are pushing a trio of bills that would subject tenants to: (1) separate water charges based not just on the tenant's use, but on usage throughout the property; (2) easier processes for owners to get law enforcement to remove alleged squatters, without protections for legitimate tenants; and (3) more hurdles to raising habitability claims. Western Center and CRLAF will be opposing all three industry bills.

Land Use: A bill to lower default housing densities in some counties, opposed by Western Center and CRLAF, was slowed last week, but is still alive.

Mobilehomes: Western Center and CRLAF are sponsoring a bill to clarify the standards a mobilehome park may use in accepting new residents who are purchasing a mobilehome from current residents. Some parks have been making it impossible for residents to sell their homes, in order to purchase the homes themselves at far below market prices.

New Redevelopment-type Districts: Several bills are moving forward. Most would match or increase housing responsibilities that were required under redevelopment law, but one (from the Governor) would cut them and also attempt to get localities to drop their pending lawsuits over redevelopment wind-down.



National Housing Law Project's Federal Update

For the Complete Federal Report, click [here](#).

President Releases Proposed FY 2015 Budget

Under the President's proposed FY 2015 Budget, some housing programs would fare better than others. For example, while proposed voucher funding would restore some vouchers lost in the sequester, the amount would be insufficient to replace all lost vouchers. Further, in the proposed budget, Project-Based Rental Assistance would be face a 2% cut, while public housing funding would slightly increase. The proposed budget also includes funding for the National Housing Trust Fund.

Rural Housing Service FY 2015 Budget Proposal

As part of the Administration's multi-year effort to reduce and, ultimately, terminate rural housing programs, the proposed FY 2015 budget for the Rural Housing Service proposes significant cuts to housing programs that serve rural low-income households.

While Congress has rejected wholesale termination in the past years, it has passed significant funding cuts. This year's budget proposal also includes three substantive legislative changes affecting the RHS housing programs: establishing a \$50 minimum rent requirement for certain programs, increasing discretion for renewal of annual Rental Assistance contracts, and authorizing RHS to undertake income verification through the Internal Revenue Service and the Department of Health and Human Services for all participants in the rental and homeownership loan programs. Stay tuned for more information regarding these proposals.

RD Issues Notice About VAWA 2013

Rural Housing Service Administrator Tony Hernandez issued a [Notice](#) to Rural Development (RD) state directors and Multifamily Housing program directors describing the Violence Against Women Reauthorization Act of 2013's housing protections, applicable to its programs, for survivors of domestic violence, sexual assault, dating violence, and stalking.

Conferences, Trainings, and Webinars



Fernando Gaytan, Legal Aid Foundation of Los Angeles, and Madeline Howard, Western Center, present a training at the Fair Housing Council of San Diego's Fair Housing Laws and Litigation Conference.

Picking up the Pieces of the Sequester: Local Advocacy Efforts to Encourage PHAs to Start Spending in 2014

April 22, 2014, 11 am, Webinar

Panelists will discuss strategies to convince local PHAs to reverse harmful policy decisions aimed to cut spending due to sequestration and update advocates on national advocacy efforts to restore voucher funding. Register [here](#).

From Wrongs to Rights: The Case for Homeless Bills of Rights Legislation

April 15, 2014, 11 am, Webinar

Panelists will discuss their new report on state homeless bills of rights. Register [here](#).

Publications

Tenants Together and the Anti-Eviction Mapping Project, *The Speculator Loophole: Ellis Act Evictions in San Francisco* (March 2014),
at <http://www.antievictionmappingproject.net/ellisreport.html>.