



Housing Update No. 81 June 2014

Save the Dates



Western Center Housing Task Force July 14, 2014 Los Angeles, CA

Tentative Agenda:
State & Federal Legislative Updates
Training: Local Utilities Violations
Lunch
Issues Roundtable
Training: Land Use Discrimination

Western Center Housing Task Force July 22, 2014 Bay Area Agenda Coming Soon



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

Litigation and Local Advocacy

Class action suit accuses park owner of charging illegal rents

Cruz v. Sierra Corporate Management, Inc., San Mateo Super. Ct. No. Civ. 528792

The owners of a Redwood City mobilehome park have illegally induced residents to sign leases that provide for conflicting amounts of beginning rents which rise dramatically and unexpectedly after two to three years, charge plaintiffs in a class action suit filed in San Mateo County Superior Court. The

Mobilehome Residency Law exempts long term leases from local rent control, but prohibits park owners from inducing residents to sign such leases with rent reductions. The suit charges the owners of the park with doing just that, using a lease that is not comprehensible to English-speaking lawyers, much less to the non-English-speaking park residents required to sign the leases without translation. Already, two Superior Court judges have agreed with that assessment, tossing out an unlawful detainer action filed against a resident who did not pay the increased rent.

Counsel: Shirley Gibson, Legal Aid Society of San Mateo County; Navneet Grewal, Richard Rothschild, Western Center on Law and Poverty; Ara Jabaghourian, Brian Schnarr, Cotchett, Pitre & McCarthy.

Suit challenges housing authority's due process violations

Murphy v. Housing Authority of the County of Kern (E.D. Cal.)

Kern County's housing authority terminates tenants from Section 8 housing following hearings which violate due process rights and federal regulations, five tenants charge in a federal lawsuit. The suit contends that hearing officers, among other things, illegally shift the burden of proof to tenants and terminate benefits on the bare allegation that the tenant owes rent. In addition, notices following the hearings, in violation of Code of Civil Procedure §1094.6(f), do not inform tenants of their right to judicial review.

Counsel: Janie H. Chang, Lily Marshall-Bass, Celida Miramontes, Greater Bakersfield Legal Assistance; Madeline Howard, Stephanie Haffner, Navneet Grewal, Richard Rothschild, Western Center on Law and Poverty; Sidley Austin LLP

No damages suit for failure to provide tenant with rent control statement, court holds

Lyles v. Sangadeo-Patel, 225 Cal.App.4th 759 (2014)

Los Angeles' rent control ordinance requires landlords to provide tenants with copies of their unit's rent control registration statement. But a former tenant could not sue for damages or restitution based on failure to provide such a statement, the Court of Appeal held. The court concluded that sole remedy belongs to current tenants, who may withhold rent.

Unanimous resident vote dispositive to veto conversion under former law, but split vote not so much

218 Properties v. City of Carson, 171 Cal.Rptr.3d 608 (2014)

Mobilehome residents won one, lost one in a battle over park conversion surveys under former Government Code §66427.5. The Court of Appeal held that a city could deny conversion to resident park ownership when a resident survey showed unanimous opposition. But where most tenants did not respond to a survey and the vote was against conversion but mixed, with low participation, former §66427.5 did not permit a city to deny conversion.

As a concurring opinion notes, the statute has been amended, effective this year, to provide that a city may disapprove "if it finds that the results of the survey have not demonstrated the support of at least a majority of the park's homeowners." Gov't Code §66427.5(d)(5).

Tenants can prove habitability violations in post-judgment fee motions, court holds

Aurora Loan Services, LLC v. Santana, No. BV 030325 (LA Super. Ct. App. Div. May 12, 2014)

Code of Civil Procedure §1174.21 provides that a landlord who institutes an unlawful detainer action based on nonpayment of rent and is guilty of warranty of habitability violations shall be liable to the tenant for attorneys' fees. In this case, the tenant got the landlord's action dismissed on other grounds, then moved for fees, demonstrating habitability violations through declarations. The trial court awarded

fees and the Appellate Division affirmed, holding that habitability violations need not be proved at trial.

No First Amendment protection for rent increases, Court of Appeal holds again

Sqrow v. A.V.M.G.H. Five, 2014 WL 1678480 (Cal. App. 2014)

Landlords sued over allegedly illegal rent increases continue to invoke the anti-SLAPP statute (Code Civ. Proc. §416.25) and the courts continue to hold, as here, that increasing rents is not First Amendment activity protected by the statute. Tenants' attorneys sought to secure publication of the opinion, but the Court of Appeal refused the request.

Neither "red-tagging" property nor foreclosure abrogates habitability rights, Court of Appeal rules

Erlach v. Sierra Assets Servicing, LLC, ___ Cal.App.4th ___, 2014 WL 2580990 (June 10, 2014)

A tenant's right to sue over uninhabitable conditions does not end when his unit is "red-tagged" by government officials or the mortgage is foreclosed, the Court of Appeal has held in a published opinion. The homeowner had shut off the tenant's utilities a few days before a foreclosure sale, resulting in a government "red-tag" order preventing the tenant from occupying the house. The new owner first promised to fix up the premises, then reneged on that promise, prompting a lawsuit. The trial court dismissed the suit, but the Court of Appeal reversed. In a comprehensive analysis of habitability and foreclosure law, the court concluded that the tenant could sue the new owner for breach of the warranty of habitability and related causes of action.

City agrees to stop discriminating against group homes

United States of America v. City of San Jacinto, No. 5:12-cv-01966-TJH (C.D. Cal.)

The City of San Jacinto, under a federal consent decree, has agreed to stop discriminating against group homes for persons with disabilities and to pay more than \$700,000 in damages and attorneys' fees. The decree settles lawsuits brought by the Justice Department and private attorneys represented by Brancart and Brancart. Among the events that triggered the lawsuit was an early morning law enforcement sweep of group homes in which residents were interrogated on whether they were drug addicts or had mental disabilities, along with similar questions.

California State Legislation and Administrative Action

For more detail, get our complete [Legislative Update](#), and our [chart](#) featuring all the housing bills in Sacramento this year.

Major housing funding in state budget!

Two major housing funding mechanisms are included in the state budget passed on Sunday. First, at least 10% of future (Fiscal Year 2015-16 and beyond) Cap-and-Trade auction revenues are to be spent on affordable housing developments that reduce Greenhouse Gas emissions (GHGs). This funding could reach into the hundreds of millions of dollars per year. Affordable housing that reduces GHGs has been typically described as transit-oriented development, but the budget language (SB 862) is not so limited and would likely include developments in walkable communities, as well as zero net-energy use affordable developments. For FY 2014-15, which uses a dollar amount formula instead of a percentage, \$130 million was designated for GHG-reducing affordable housing production.

Second, the Legislature appropriated \$100 million in General Fund monies for the Department of Housing's Multifamily Housing Program (MHP), HCD's major funding program. Half will go into the regular MHP program, and half for the MHP-Supportive Housing program. The latter program focuses on the production of permanent supportive housing for persons that are homeless and of extremely low incomes. This is the first significant General Fund appropriation for any state housing program in

fourteen years.

Additional housing funds for GHG reduction includes \$75 million this year for low-income weatherization, both for homeowners and properties with low-income tenants. In future years, weatherization will be an eligible use for the 40% of Cap-and-Trade proceeds not allocated in this year's budget.

The budget also includes implementation of Prop. 41, which authorizes \$600 million in general obligation bonds for affordable multifamily supportive housing to relieve homelessness, affordable transitional housing, affordable rental housing, or related facilities for veterans and their families

Finally, the overall budget package appropriates \$10 million for rental and utility assistance for households affected by the drought. After years of few or no housing dollars, this year's budget is a significant advance.

Landlord-tenant bills on both sides advance

A realtor-sponsored measure, AB 1513, continues to move forward despite strong opposition from tenant groups. Now much narrowed, the bill would create a pilot program in Palmdale and Lancaster to evict alleged trespassers based only on a declaration of the landlord that the property was vacant and that the landlord has hired security that verifies the vacant status every three days. Housing advocates hope to defeat the bill in the Senate Public Safety Committee. Meanwhile, SB 1439 would curb speculation in San Francisco by prohibiting large landlords acquiring rental property from using the "Ellis Act" to evict all the tenants and convert the building to homeownership units. This bill too was narrowed and faces an uphill fight in the Assembly, where landlord opposition is intense.

Land use bills a mixed bag too

The still active land use bills also have some good, some bad. On the plus side, AB 2222 would prohibit a density bonus where the development results in a net loss of affordable units. The bill is especially important in rent control areas. Balancing that, AB 1537 would grant lower-than-normal density goals to, of all places, Marin County. Housing advocates continue to oppose.

Redevelopment replacement still possible

Two bills remain alive that would allow localities to create districts that finance development using future tax receipts as a funding source (tax increment), as was done by redevelopment agencies. Both AB 2280 and SB 1 would require 25% of the tax revenues to be dedicated to affordable housing, and contain similar housing production, preservation, reporting, and other requirements that are found in the Community Redevelopment Law. Both are likely to pass both houses, but what the Governor might do remains a question mark.



National Housing Law Project's Federal Update

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

The House Releases Proposed FY 2015 Budget

The House Committee on Appropriations reported out a FY 2015 funding bill for HUD that makes deep cuts to housing programs. The House bill would risk the permanent loss of the 70,000 vouchers lost as a result of sequestration. In addition, the bill cuts funding for PHA administrative fees without implementing mechanisms for PHAs to cut costs. The bill also stalls HUD's efforts to reduce homelessness by freezing funding for homeless assistance grants and therefore limiting funding for supportive housing programs. The bill further cuts funding for public housing, which is already operating at levels well below what is needed to run efficient programs. The bill includes cuts to other housing programs that will negatively impact housing opportunities for low income families.

The Senate Releases Proposed FY 2015 Budget

The Senate 2015 funding bill is better than the House bill, allocating about \$1 billion more for HUD programs. Unfortunately, it still falls short. The Senate, like the House bill, may lock in the loss of over 70,000 vouchers that were lost as a result of the sequester. The bill provides more funding than the House bill for homeless assistance programs (although only enough to renew existing grants) and \$200 million more for public housing capital and operational needs, but levels are still too low to run effective programs. In addition, the bill raises the number of Rental Assistance Demonstration units authorized to participate in the program to 185,000 and provides some funding for HUD to implement VAWA 2013.

Rural Housing Service FY 2015 Budget Proposal

PROGRAM	Current FY 14 Budget (Enacted)	President's FY 15 Budget	House Committee	Senate Committee
Section 515 Rental Loans	\$ 28.4 mil.	\$ 28.4 mil.	\$ 28.4 mil.	\$ 28.4 mil.
Section 538 Guaranteed Multi-Family	\$ 150 mil.	\$ 150 mil.	\$ 150 mil.	\$ 150 mil.
Preservation of Multi-family Housing	\$ 20 mil.	\$ 20 mil.	\$ 20 mil.	\$ 20 mil.
Rural Preservation Vouchers	\$ 12.5 mil.	\$ 8 mil.	\$ 8 mil.	\$ 8 mil.
Section 521 Rental Assistance	\$ 956 mil.	\$ 1.09 bil.	\$ 1.09 bil.	\$ 1.09 bil.
Section 514 Farm Labor Loans & Grants	\$ 36 mil.	\$ 32.2 mil	\$ 23.6 mil.	\$ 23.8 mil.
Section 502 Direct Homeownership Loans	\$ 900 mil.	\$ 360 mil.	\$ 1.04 bil.	\$ 900 mil.
Section 502 Guaranteed Homeownership Loans	\$ 24 bil.	\$ 24 bil.	\$ 24 bil.	\$ 24 bil.

Both the House and Senate Agriculture Appropriations subcommittees rejected the Administration's proposals to (1) impose a \$50/month minimum rent in RHS housing; and (2) grant the agency discretion on renewal of Rental Assistance contracts. However, they did preclude the renewal of rental assistance contracts during the 12 month term of the contract.

HUD Notices

Expiring Mortgages: For projects with expiring mortgages in FYs 13 and 14, HUD has recently published a Notice (HUD 2014-13 (May 20, 2014)) announcing funding for tenant protection vouchers for unassisted tenants in specified low vacancy areas who would be rent-burdened (rents > 30% of income) after expiration of the current rent restrictions. The \$5 million for these new vouchers will be provided on a first-come, first-served basis to eligible properties and tenants, upon application by owners, according to the procedures and standards outlined in the notice.

Enhanced Voucher right to remain: On May 20, HUD issued a letter to PHAs reiterating that tenants receiving enhanced vouchers have a right to remain in their homes that are undergoing subsidy conversion, absent good cause for eviction, despite any passage of time or change of ownership. Most owners, PHAs, HUD staff and tenants remain in the dark about the basic fact that tenants with enhanced vouchers cannot be evicted without good cause at any time, unlike other regular voucher tenants after the initial lease term in most jurisdictions lacking state or local good cause eviction protections.

Thus, HUD should also be requiring PHAs to use an enhanced voucher lease addendum so that the owner, tenants, PHA, and court know that this right exists and thus that the tenant cannot be evicted without good cause. You can find the lease addendum on NHLP's website [here](#). Until HUD so instructs

PHAs, advocates representing tenants residing in previously converted properties with enhanced vouchers should encourage their PHA to use such an addendum to supplement the ordinary voucher lease addendum.

Conferences, Trainings, and Webinars



KeAndra Dodds and Naveneet Grewal, Western Center, Chris A. Schneider and Michael Brooks, Central California Legal Services, Inc., and Stephanie Haffner Western Center, participate in Western Center's 2014 housing task force meeting in Fresno.

The Impact Fund's Summer 2014 Webinar Training Series

June, July, & August 2014, 12 pm, Webinars

Panelist will provide one training each month on the following topics: A Beginner's Guide to Rule 30(b)(6) Depositions; Cy Pres in Class Action Settlements: How to Do It Right and Benefit Legal Services; and California Class Action Update. Register [here](#).

Publications

The Homes For All Campaign Of Right To The City Alliance, *Rise Of The Renter Nation: Solutions To The Housing Affordability Crisis* (June 2014), at <http://homesforall.org/campaign/reports/renter-nation-summary/>.

Copyright 2014 Western Center on Law & Poverty. Permission is granted to copy and share this publication with LSC- and IOLTA-funded organizations. For other permissions, please contact us at ngrewal@wclp.org

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

 SafeUnsubscribe™

This email was sent to ngrewal@wclp.org by kdodds@wclp.org | [Update Profile/Email Address](#) | Rapid removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).



Western Center on Law & Poverty | 3701 Wilshire Blvd., Suite 208 | Los Angeles | CA | 90010