

SANTA MONICA RENT CONTROL BOARD MEMORANDUM

TO: Santa Monica Rent Control Board

FROM: J. Stephen Lewis, General Counsel

FOR MEETING OF: October 8, 2020

RE: The Board will consider amendments to Regulations 1600, 1602, 1620, 1622, 1626, 1629, and 1630 of Chapter 16 of Board Regulations, respecting the withdrawal of accommodations from the rental market, to bring those regulations into conformity with recent changes to the state law

Subject Matter

In this administrative hearing, the Board will consider whether to amend Board regulations 1600, 1602, 1620, 1622, 1626, 1629, and 1630 of Chapter 16 of Board Regulations, respecting the withdrawal of accommodations from the rental market, to bring those regulations into conformity with recent changes to the state-law Ellis Act, made by the 2019 Assembly Bill (AB) 1399, which became effective on January 1, 2020. The changes to the Ellis Act that the regulatory amendments would implement locally:

- Specify that there is only one date of withdrawal of accommodations as a whole;
- Specify that the date of withdrawal of accommodations as a whole for purposes of determining the two, five, and ten-year periods following withdrawal is the last tenancy termination date resulting from withdrawal; and
- Specify that an owner's payment of damages resulting from the owner's failure to comply with an obligation to give a qualified tenant the right to return to withdrawn accommodations does not extinguish the owner's obligation to comply with that obligation.

How this Item was Initiated

This item was initiated by the Board's General Counsel for the purpose of fully

implementing the tenant protections that were clarified or extended by recent amendments to the Ellis Act.

Discussion

Since its enactment in 1986, the Ellis Act has permitted owners of controlled property to terminate all tenancies in such a property and withdraw the property from the rental market for the purpose of going out of the residential rental business. But the Legislature recognized that an owner might abuse the right to withdraw units from the market by merely pretending to go out of business, while always harboring the intention to continue renting the accommodations after the owner used the Ellis Act to get rid of the existing tenants. And so, also since its original enactment, the Ellis Act has included provisions to protect tenants against this type of abuse. Chief among those protections is a tenant's right to return to units from which they were displaced if the owner returns the accommodations to the rental market within ten years; returning tenants' right to be charged no more than the controlled rent that they would have been paying if they had never been displaced if the property is returned to the market within five years; and tenants' ability to collect punitive damages against an owner who frustrates a tenant's exercise of those rights.

In recent years, some owners began to frustrate the right of tenants displaced by Ellis to return to their erstwhile units in order that the owners could return a withdrawn property to the rental market with the greatest number of units—if not all units—paying market rents. Articles began to appear in publications by and for owners of controlled property describing how the Ellis Act could be used not for its intended purpose of going out of business, but as part of an ongoing business model. Locally, one owner emptied his buildings of as many tenants as possible through buyouts or attrition, used the Ellis Act to withdraw the properties from the market, and then purported to return to the market only those units that were empty at the time of the withdrawal. Other owners returned all units to the market, but frustrated tenants' right to return to their units by paying them the damages specified in the Ellis Act and then arguing that the payment extinguished their obligation to permit the tenants to return. The Board initiated litigation to combat both schemes.

At the same time, the Board (together with other jurisdictions) alerted the Legislature to these means by which the protections that it had enacted were being subverted. In response, the Legislature passed AB 1399, which amended

the Ellis Act to prevent these abuses from continuing. The bill, which became law on January 1 of this year, and which is attached to this report as Exhibit 2, does the following:

- It clarifies that, just as an owner may withdraw no fewer than all units in a given property from the market, an owner may return no fewer than all units to the market at one time;
- It specifies that there is only one date of withdrawal, not differing dates depending on whether a tenant was entitled to a one-year extension due to age or disability (though it continues to permit tenancies to be terminated after 120 days if the tenant is not entitled to such an extension);
- It specifies that payment of damages does not extinguish the obligation of an owner who returns withdrawn accommodations to the rental market to permit misplaced tenants to return (though it does not require owners to permit a tenant to return to a unit that an owner occupies as the owner's principal place of residence, unless the unit ceases to be the owner's principal place of residence).

The proposed regulations, included in Exhibit 1 to this report, incorporate these changes to state law into the Board's regulations.

Recommendation

Because the proposed amendments do nothing more than conform the Board's regulations to state law, staff recommends that the Board make and approve the following motion:

MOVED: Amend Board regulations 1600, 1602, 1620, 1622, 1626, 1629, and 1630 of Chapter 16 of Board Regulations, respecting the withdrawal of accommodations from the rental market, to bring those regulations into conformity with recent changes to the Ellis Act made by AB 1399, as set forth in Exhibit 1 of the staff report.

EXHIBIT 1

1600. Withdrawal of Accommodations from Rent or Lease

Pursuant to California Government Code Sections 7060 et seq. (the "Ellis Act") the owner of residential real property subject to the Rent Control Law may withdraw accommodations on the property from rent or lease in accordance with the provisions of this Chapter.

Amendments to this Chapter, adopted by the Board on January 27, 2000, are made to carry out amendments to the Ellis Act effective January 1, 2000. Amendments to this chapter adopted January 27, 2000 are applicable to all applications for withdrawal of accommodations filed on or after January 1, 2000.

Amendments to this Chapter, adopted by the Board on January 9, 2003, are made to carry out amendments to the Ellis Act effective January 1, 2003. Amendments to this chapter adopted January 9, 2003 are applicable to all new tenancies following return to the rental business created after December 31, 2002.

Amendments to this Chapter, adopted by the Board on October 8, 2020, are intended to incorporate into this Chapter all amendments to the Ellis Act effective January 1, 2020, and are to be construed to effectuate the intent of those amendments to the fullest possible extent. These amendments are applicable to all withdrawn accommodations that are returned to the rental market on or after January 1, 2020.

1602. Date of Withdrawal

- (a) Unless a tenancy is extended as provided for by subdivision (b) of this section, ~~¶~~the date on which accommodations are withdrawn from rent or lease pursuant to this Chapter is one-hundred-twenty (120) days from the date of service upon the Board of the original Notice of Intention to Withdraw Accommodations From Rent or Lease (hereinafter "Notice of Intent") and a conformed copy of the recorded Memorandum Summarizing Non-Confidential Provisions of Notice of Intention to Withdraw Accommodations From Rent or Lease, as required by Section 1608 of these regulations ~~except as provided in subsection (b), below.~~ This section applies equally to all properties withdrawn pursuant to this Chapter, including properties vacant prior to the commencement of the procedure described herein.
- (b) If a tenant or lessee is at least 62 years of age or disabled, and has lived in his or her unit for at least one year prior to the date of the owner filing the Notice of Intent with the Board pursuant to Section 1608, the date of withdrawal of ~~the accommodations of that tenant or lessee~~the accommodations as a whole shall be extended to one year after the date of filing the Notice of Intent, provided the tenant or lessee gives written notice of his or her entitlement to an extension to the owner within 60 days of the date of filing of the Notice of Intent. If these qualifications have been met, the following provisions shall apply:

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- (1) The tenancy shall continue on the same terms and conditions as existed on the date of filing of the Notice of Intent with the Board, subject to any adjustments otherwise available under the Rent Control Law and regulations.
- (2) No party shall be relieved of the duty to perform any obligation under the lease or rental agreement.
- (3) The owner may elect to extend the ~~date of withdrawal on tenancy in~~ any other unit within the accommodations from 120 days to up to one year after the date of filing the Notice of Intent with the Board, subject to the requirements of subparagraphs (1) and (2), above.
- (4) Within thirty (30) days of the notification by the tenant or lessee to the owner of his or her entitlement to an extension, the owner shall give written notice to the Board of the claim that the tenant or lessee is entitled to stay in his or her unit for one year after the date of the filing of the Notice of Intent with the Board.
- ~~(5)~~ Within ninety (90) days of the date of filing of the Notice of Intent with the Board, the owner shall give written notice to the Board and the affected tenants or lessees of the extension of the withdrawal date to one year from the owner's filing of the Notice of Intent to Withdraw with respect to any unit whose tenant is entitled to the extension under this subdivision, as well as the owner's election to extend the ~~date of withdrawal~~ tenancies of any other units and the ~~new date of withdrawal~~ under subparagraph (3), above.
- ~~(5)~~(6) Solely for the purpose of determining the rights and responsibilities of owners and new or displaced tenants if withdrawn accommodations are later returned to the rental market—and not for purposes of determining the date on which different tenancies within the accommodations terminate— there shall be only one date of withdrawal for the accommodations as a whole. Therefore, if any tenancy is eligible for extension under this subdivision (b), for purposes of calculating the two, five and ten-year periods from the date of withdrawal specified in Sections 1620, 1621, 1622, 1626, 1629, 1630, and 1633 of this Chapter, the date of withdrawal shall be one year from the date when the owner filed the Notice of Intent to Withdraw with the Board.

1619. Damages and Penalties

Rental of withdrawn accommodations for residential purposes within two years of withdrawal shall subject an owner to actual and exemplary damages as set forth in Section 1629.

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1620. Notice to Board

- (a) If an owner ~~of accommodations~~ wishes to offer any part of those withdrawn accommodations again for rent or lease within two years of withdrawal, the owner must return all accommodations or units within the accommodations for rent or lease, subject only to limitations specified in subdivision (e) of regulation 1629 and subdivision (c) of regulation 1630. Before returning withdrawn accommodations to the rental market, the owner shall file a Notice of Intention to Re-Rent Withdrawn Accommodations with the Board containing the following information:
- (1) The names and mailing addresses of all owners of the property;
 - (2) A statement that said owners intend to re-rent the accommodations;
 - (3) The addresses of those accommodations.
- (b) Except as provided in regulation 1621, the owner shall not offer any unit from which a tenant or lessee was displaced for rent or lease for a period of thirty (30) days following the filing of the Notice of Intention to Re-Rent Withdrawn Accommodations with the Board.
- (c) The Board will provide an official form Notice of Intention to Re-Rent Withdrawn Accommodations.

1621. Owner Must Offer Accommodations To Certain Displaced Tenants

An owner who offers accommodations for rent or lease within two years of the date of withdrawal shall first offer to rent or lease each unit to the tenant or tenants displaced from that unit upon the same terms and conditions as those which existed prior to withdrawal of the accommodations, provided that said tenant or tenants have given notice of their desire to renew tenancy within two years as required by Section 1618. The owner must include copies of such written offers to the qualifying tenants with the Notice of Intention to Re-Rent Withdrawn Accommodations at the time the Notice is filed with the Board.

1622. Notice to Board

- (a) If an owner ~~of accommodations~~ wishes to offer ~~those withdrawn~~ accommodations again for rent or lease more than two years but less than ten years after withdrawal, the owner shall file a Notice of Intention to Re-Rent Withdrawn Accommodations with the Board containing the following information:
- (1) The names and mailing addresses of all owners of the property;
 - (2) A statement that said owners intend to re-rent the accommodations;
 - (3) The addresses of those accommodations.

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- (b) Except as provided in regulation 1625, the owner shall not offer any unit from which a tenant or lessee was displaced for rent or lease for a period of thirty (30) days following service of the Notice of Intention to Re-Rent Withdrawn Accommodations upon the Board.
- (c) The Board will provide an official form Notice of Intention to Re-Rent Withdrawn Accommodations.

1626. Punitive Damages

- (a) If an owner re-rents withdrawn accommodations more than two years after withdrawal without first notifying the Board in accordance with Section 1622, said owner shall be liable to any tenant or lessee displaced by the withdrawal for punitive damages as provided by Section 1630(b). Payment of such damages shall not extinguish the owner's obligation to offer to re-rent to tenants displaced by the withdrawal the accommodations from which they were displaced.
- (b) If, after receiving written notification of a tenant's desire to re-rent a unit in accordance with Section 1624 within thirty (30) days of the date of service on the Board of a Notice of Intention to Re-Rent Withdrawn Accommodations, the owner fails to offer to re-rent the unit to the tenant or lessee in accordance with Section 1625, said owner shall be liable to any tenant or lessee displaced by the withdrawal for punitive damages as provided by Section 1630(b). Payment of such damages shall not extinguish the owner's obligation to offer to re-rent to tenants displaced by the withdrawal the accommodations from which they were displaced.
- (c) Nothing in this Section shall preclude the Board or a displaced tenant from pursuing any other remedy under the law.

1629. Restrictions If Accommodations Rented Within Two Years

If the accommodations are offered for rent or lease within two years of the date on which they were withdrawn from rent or lease:

- (a) The accommodations shall be subject to the Rent Control Law in the same manner and to the same extent as if they had not been withdrawn from rent or lease. Initial rent levels for accommodations again offered for rent or lease shall be set pursuant to regulation 1633.
- (b) The owner of the accommodations shall be liable to any tenant or lessee who was displaced from the property by the withdrawal for actual and exemplary damages. Any action by a tenant or lessee pursuant to this paragraph shall be brought within three years of the withdrawal of the accommodations from rent or

EXHIBIT 1

lease. However, nothing in this paragraph precludes a tenant from pursuing any alternative remedy available under the law.

- (c) The Board may institute a civil proceeding against any owner who has again offered accommodations for rent or lease subject to this section, for exemplary damages for displacement of tenants or lessees. Any action by the Board pursuant to this paragraph shall be brought within three years of the withdrawal of the accommodations from rent or lease.
- (d) Any owner who offers accommodations again for rent or lease shall first offer the unit for rent or lease to the tenant or lessee displaced from that unit by the withdrawal pursuant to this Chapter, if the tenant or lessee has advised the owner in writing within 30 days of the displacement of his or her desire to consider an offer to renew the tenancy and has furnished the owner with an address to which that offer is to be directed. That tenant, lessee, or former tenant or lessee may advise the owner at any time during the eligibility of a change of address to which an offer is to be directed. If the owner again offers the accommodations for rent or lease pursuant to this subdivision, and the tenant or lessee has advised the owner pursuant to this subdivision of a desire to consider an offer to renew the tenancy, then the owner shall offer to reinstitute a rental agreement or lease on terms permitted by law to that displaced tenant or lessee. This offer, to be made prior to or concurrently with the filing of the Notice of Intention to Re-Rent Withdrawn Accommodations with the Board, shall be deposited in the United States mail, by registered or certified mail with postage prepaid, addressed to the displaced tenant or lessee at the address furnished to the owner as provided in this subdivision, and shall describe the terms of the offer. The displaced tenant or lessee shall have 30 days from the deposit of the offer in the mail to accept the offer by personal delivery of that acceptance or by deposit of the acceptance in the United States mail by registered or certified mail with postage prepaid.
- (e) Notwithstanding subdivision (d) or any other provision of this Chapter, an owner is not required to return to the rental market any unit that:
 - (1) was the principal place of residence of any owner or owner's family member at the time of withdrawal, provided that it continues to be that person's or those persons' principal place of residence when accommodations are returned to the rental market; or
 - (2) is the principal place of residence of an owner of the accommodations at the time when the accommodations are returned to the rental market. If the owner vacates the unit within 10 years from the date of withdrawal, the owner shall, within 30 days, offer to re-rent that unit to any tenant who was displaced from it by the withdrawal.

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1630. Restrictions If Accommodations Rented After Two Years

If the accommodations are offered for rent or lease after two years of the date on which they were withdrawn from rent or lease:

- (a) The accommodations shall be subject to the Rent Control Law in the same manner and to the same extent as if the accommodations had not been withdrawn from rent or lease. Initial rent levels for accommodations again offered for rent or lease shall be set pursuant to regulation 1633.
- (b) An owner who offers accommodations again for rent or lease within a period not exceeding 10 years from the date on which they are withdrawn shall first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, if that tenant or lessee requests the offer in writing within 30 days after the owner has notified the Board of an intention to offer the accommodations again for residential rent or lease. The owner of the accommodations shall be liable to any tenant or lessee who was displaced by that action for failure to comply with this paragraph, for punitive damages in an amount which does not exceed the contract rent for six months, payment of which shall not extinguish the owner's obligation to comply with the offer to re-rent, and to re-rent if the offer is accepted, as required by this section.
- (c) Notwithstanding subdivision (b) or any other provision of this Chapter, an owner is not required to return to the rental market any unit that:
 - (1) was the principal place of residence of any owner or owner's family member at the time of withdrawal, provided that it continues to be that person's or those persons' principal place of residence when accommodations are returned to the rental market; or
 - (2) is the principal place of residence of an owner of the accommodations at the time when the accommodations are returned to the rental market. If the owner vacates the unit within 10 years from the date of withdrawal, the owner shall, within 30 days, offer to re-rent that unit to any tenant who was displaced from it by the withdrawal.

2019 Cal. Legis. Serv. Ch. 596 (A.B. 1399) (WEST)

CALIFORNIA 2019 LEGISLATIVE SERVICE

2019 Portion of 2019-2020 Regular Session

Additions are indicated by **Text**; deletions by

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Vetoed are indicated by ~~Text~~ ;

stricken material by ~~Text~~ .

CHAPTER 596

A.B. No. 1399

LANDLORD AND TENANT—ACCOMMODATIONS

AN ACT to amend Sections 7060.2, 7060.4, and 7060.7 of the Government Code, relating to residential real property.

[Filed with Secretary of State October 8, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, Bloom. Residential real property: rent control: withdrawal of accommodations.

- (1) Existing law, commonly known as the Ellis Act, generally prohibits public entities from adopting any statute, ordinance, or regulation, or taking any administrative action, as specified, to compel the owner of residential real property to offer or to continue to offer accommodations, as defined, in the property for rent or lease. Existing law authorizes a public entity acting pursuant to the Ellis Act to require an owner who offers accommodations for rent or lease within a period not exceeding 10 years from the date on which they were withdrawn, as specified, to first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, subject to certain requirements. If the owner fails to comply with this requirement, the owner is liable to a displaced tenant or lessee for punitive damages not to exceed 6 months' rent.

This bill would prohibit a payment of the above-described punitive damages from being construed to extinguish the owner's obligation to offer the accommodations to a prior tenant or lessee, as described above.

- (2) Existing law qualifies the Ellis Act prohibition on compelling owners to offer or to continue to offer accommodations by, among other things, permitting a public entity to require an owner to provide notice that the owner has initiated actions to terminate tenancies and, in this situation, the date of withdrawal of accommodations would be 120 days from the delivery of the notice. Existing law extends the term for the withdrawal of accommodations, in this context, to one year if the tenant or lessee is 62 years of age or older, or disabled, and other conditions are met.

This bill, with regard to the withdrawal of accommodations and the extension of tenancies, as described above, would require the date of withdrawal for the accommodations as a whole to be the latest termination date among all tenants within the accommodations for purposes of calculating specified time periods, as specified. The bill would make conforming changes to clarify the application of these provisions with respect to accommodations with multiple units and with respect to requirements to give notice to public entities and tenants with extended tenancies. The bill would also conform a statement of legislative intent relating to the Ellis Act to specify that it is not intended to permit an owner to return to

the rental market less than all of the accommodations, among other things. The bill would also amend this statement of legislative intent to make further statements regarding what the act is not intended to permit on the part of an owner.

The people of the State of California do enact as follows:

SECTION 1. Section 7060.2 of the Government Code is amended to read:

<< CA GOVT § 7060.2 >>

7060.2. If a public entity, by valid exercise of its police power, has in effect any control or system of control on the price at which accommodations may be offered for rent or lease, that entity may, notwithstanding any provision of this chapter, provide by statute or ordinance, or by regulation as specified in Section 7060.5, that any accommodations which have been offered for rent or lease and which were subject to that control or system of control at the time the accommodations were withdrawn from rent or lease, shall be subject to the following:

(a)(1) For all tenancies commenced during the time periods described in paragraph (2), the accommodations shall be offered and rented or leased at the lawful rent in effect at the time any notice of intent to withdraw the accommodations is filed with the public entity, plus annual adjustments available under the system of control.

(2) The provisions of paragraph (1) shall apply to all tenancies commenced during either of the following time periods:

(A) The five-year period after any notice of intent to withdraw the accommodations is filed with the public entity, whether or not the notice of intent is rescinded or the withdrawal of the accommodations is completed pursuant to the notice of intent.

(B) The five-year period after the accommodations are withdrawn.

(3) This subdivision shall prevail over any conflicting provision of law authorizing the landlord to establish the rental rate upon the initial hiring of the accommodations.

(b) If the accommodations are offered again for rent or lease for residential purposes within two years of the date the accommodations were withdrawn from rent or lease, the following provisions shall govern:

(1) The owner of the accommodations shall be liable to any tenant or lessee who was displaced from the property by that action for actual and exemplary damages. Any action by a tenant or lessee pursuant to this paragraph shall be brought within three years of the withdrawal of the accommodations from rent or lease. However, nothing in this paragraph precludes a tenant from pursuing any alternative remedy available under the law.

(2) A public entity which has acted pursuant to this section may institute a civil proceeding against any owner who has again offered accommodations for rent or lease subject to this subdivision, for exemplary damages for displacement of tenants or lessees. Any action by a public entity pursuant to this paragraph shall be brought within three years of the withdrawal of the accommodations from rent or lease.

(3) Any owner who offers accommodations again for rent or lease shall first offer the unit for rent or lease to the tenant or lessee displaced from that unit by the withdrawal pursuant to this chapter, if the tenant has advised the owner in writing within 30 days of the displacement of ~~***~~ **the tenant's** desire to consider an offer to renew the tenancy and has furnished the owner with an address to which that offer is to be directed. That tenant, lessee, or former tenant or lessee may advise the owner at any time during the eligibility of a change of address to which an offer is to be directed.

If the owner again offers the accommodations for rent or lease pursuant to this subdivision, and the tenant or lessee has advised the owner pursuant to this subdivision of a desire to consider an offer to renew the tenancy, then the owner shall offer to reinstitute a rental agreement or lease on terms permitted by law to that displaced tenant or lessee.

This offer shall be deposited in the United States mail, by registered or certified mail with postage prepaid, addressed to the displaced tenant or lessee at the address furnished to the owner as provided in this subdivision, and shall describe the terms of the offer. The displaced tenant or lessee shall have 30 days from the deposit of the offer in the mail to accept the offer by personal delivery of that acceptance or by deposit of the acceptance in the United States mail by registered or certified mail with postage prepaid.

(c) A public entity which has acted pursuant to this section, may require by statute or ordinance, or by regulation as specified in Section 7060.5, that an owner who offers accommodations again for rent or lease within a period not exceeding 10 years from the date on which they are withdrawn, and which are subject to this subdivision, shall first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, if that tenant or lessee requests the offer in writing within 30 days after the owner has notified the public entity of an intention to offer the accommodations again for residential rent or lease pursuant to a requirement adopted by the public entity under subdivision (c) of Section 7060.4. The owner of the accommodations shall be liable to any tenant or lessee who was displaced by that action for failure to comply with this paragraph, for punitive damages in an amount which does not exceed the contract rent for six months, **and the payment of which shall not be construed to extinguish the owner's obligation to comply with this subdivision.**

(d) If the accommodations are demolished, and new accommodations are constructed on the same property, and offered for rent or lease within five years of the date the accommodations were withdrawn from rent or lease, the newly constructed accommodations shall be subject to any system of controls on the price at which they would be offered on the basis of a fair and reasonable return on the newly constructed accommodations, notwithstanding any exemption from the system of controls for newly constructed accommodations.

(e) The amendments to this section enacted by the act adding this subdivision¹ shall apply to all new tenancies created after December 31, 2002. If a new tenancy was lawfully created prior to January 1, 2003, after a lawful withdrawal of the unit under this chapter, the amendments to this section enacted by the act adding this subdivision may not apply to new tenancies created after that date.

SEC. 2. Section 7060.4 of the Government Code is amended to read:

<< CA GOVT § 7060.4 >>

7060.4. (a) Any public entity which, by a valid exercise of its police power, has in effect any control or system of control on the price at which accommodations are offered for rent or lease, may require by statute or ordinance, or by regulation as specified in Section 7060.5, that the owner notify the entity of an intention to withdraw those accommodations from rent or lease and may require that the notice contain statements, under penalty of perjury, providing information on the number of accommodations, the address or location of those accommodations, the name or names of the tenants or lessees of the accommodations, and the rent applicable to each residential rental unit.

Information respecting the name or names of the tenants, the rent applicable to any residential rental unit, or the total number of accommodations, is confidential information and for purposes of this chapter shall be treated as confidential information by any public entity for purposes of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). A public entity shall, to the extent required by the preceding sentence, be considered an “agency,” as defined by subdivision (d) of Section 1798.3 of the Civil Code.

(b) The statute, ordinance, or regulation of the public entity may require that the owner record with the county recorder a memorandum summarizing the provisions, other than the confidential provisions, of the notice in a form which shall be prescribed by the statute, ordinance, or regulation, and require a certification with that notice that actions have been initiated as required by law to terminate any existing tenancies. In that situation, the date on which the accommodations are withdrawn from rent or lease for purposes of this chapter is 120 days from the delivery in person or by first-class mail of that notice to the public entity. However, if the tenant or lessee is at least 62 years of age or disabled, and has lived in *** **their accommodations or unit within the** accommodations for at least one year prior to the date of delivery to the public entity of the notice of intent to withdraw pursuant to subdivision (a), then the date of withdrawal of the accommodations of that tenant or lessee shall be extended to one year after the date of delivery of that notice to the public entity, provided that the tenant or lessee gives written notice of *** **their** entitlement to an extension to the owner within 60 days of the date of delivery to the public entity of the notice of intent to withdraw. In that situation, the following provisions shall apply:

(1) The tenancy shall be continued on the same terms and conditions as existed on the date of delivery to the public entity of the notice of intent to withdraw, subject to any adjustments otherwise available under the system of control.

(2) No party shall be relieved of the duty to perform any obligation under the lease or rental agreement.

(3) The owner may elect to extend the *** **tenancy** on any other **unit within the** accommodations up to one year after date of delivery to the public entity of the notice of intent to withdraw, subject to paragraphs (1) and (2).

(4) Within 30 days of the notification by the tenant or lessee to the owner of *** **their** entitlement to an extension, the owner shall give written notice to the public entity of the claim that the tenant or lessee is entitled to stay in their accommodations **or unit within the accommodations** for one year after date of delivery to the public entity of the notice of intent to withdraw.

(5) Within 90 days of date of delivery to the public entity of the notice of intent to withdraw, the owner shall give written notice *** of the owner's election to extend *** **a tenancy** under paragraph (3) **and the revised date of withdrawal to the public entity and any tenant or lessee whose tenancy is extended.**

(6) The date of withdrawal for the accommodations as a whole, for purposes of calculating the time periods described in Section 7060.2, shall be the latest termination date among all tenants within the accommodations, as stated in the notices required by paragraphs (4) and (5). An owner's further voluntary extension of a tenancy beyond the date stated in the notices required by paragraphs (4) and (5) shall not extend the date of withdrawal.

(c) The statute, ordinance, or regulation of the public entity adopted pursuant to subdivision (a) may also require the owner to notify any tenant or lessee displaced pursuant to this chapter of the following:

(1) That the public entity has been notified pursuant to subdivision (a).

(2) That the notice to the public entity specified the name and the amount of rent paid by the tenant or lessee as an occupant of the accommodations.

(3) The amount of rent the owner specified in the notice to the public entity.

(4) Notice to the tenant or lessee of *** **their** rights under paragraph (3) of subdivision (b) of Section 7060.2.

(5) Notice to the tenant or lessee of the following:

(A) If the tenant or lessee is at least 62 years of age or disabled, and has lived in *** **their** accommodations for at least one year prior to the date of delivery to the public entity of the notice of intent to withdraw, then tenancy shall be extended to one year

after date of delivery to the public entity of the notice of intent to withdraw, provided that the tenant or lessee gives written notice of ~~***~~ **their** entitlement to the owner within 60 days of date of delivery to the public entity of the notice of intent to withdraw.

(B) The extended tenancy shall be continued on the same terms and conditions as existed on date of delivery to the public entity of the notice of intent to withdraw, subject to any adjustments otherwise available under the system of control.

(C) No party shall be relieved of the duty to perform any obligation under the lease or rental agreement during the extended tenancy.

(d) The statute, ordinance, or regulation of the public entity adopted pursuant to subdivision (a) may also require the owner to notify the public entity in writing of an intention to again offer the accommodations for rent or lease.

SEC. 3. Section 7060.7 of the Government Code is amended to read:

<< CA GOVT § 7060.7 >>

7060.7. It is the intent of the Legislature in enacting this chapter to supersede any holding or portion of any holding in *Nash v. City of Santa Monica*, 37 Cal.3d 97 to the extent that the holding, or portion of the holding, conflicts with this chapter, so as to permit landlords to go out of business. However, this act is not otherwise intended to do any of the following:

(a) Interfere with local governmental authority over land use, including regulation of the conversion of existing housing to condominiums or other subdivided interests or to other nonresidential use following its withdrawal from rent or lease under this chapter.

(b) Preempt local or municipal environmental or land use regulations, procedures, or controls that govern the demolition and redevelopment of residential property.

(c) Override procedural protections designed to prevent abuse of the right to evict tenants.

(d) Permit an owner to ~~***~~ **do any of the following:**

(1) Withdraw from rent or lease less than all of the accommodations, as defined by paragraph (1) or (2) of subdivision (b) of Section 7060.

(2) Decline to make a written re rental offer to any tenant or lessee who occupied a unit at the time when the owner gave the public entity notice of its intent to withdraw the accommodations, in the manner and within the timeframe specified in paragraph (3) of subdivision (b), or in subdivision (c), of Section 7060.2. But the requirements of this paragraph shall not apply to:

(A) A unit that was the principal place of residence of any owner or owner's family member at the time of withdrawal, provided that it continues to be that person's or those persons' principal place of residence when accommodations are returned to the rental market as provided in this section.

(B) A unit that is the principal place of residence of an owner when the accommodations are returned to the rental market, if it is the owners' principal place of residence, at the time of return to the rental market, as provided in this section. If the owner vacates the unit within 10 years from the date of withdrawal, the owner shall, within 30 days, offer to rent if required under this paragraph.

(e) Grant to any public entity any power which it does not possess independent of this chapter to control or establish a system of control on the price at which accommodations may be offered for rent or lease, or to diminish any such power which that public entity may possess, except as specifically provided in this chapter.

(f) Alter in any way either Section 65863.7 relating to the withdrawal of accommodations which comprise a mobilehome park from rent or lease or subdivision (f) of Section 798.56 of the Civil Code relating to a change of use of a mobilehome park.

Footnotes

1 Stats.2002, c. 301 (S.B.1403), § 5.

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