



Rent Stabilization Board
Commissioner Elgstrand

DATE: March 16, 2023

To: Honorable Members of the Berkeley Rent Stabilization Board

From: Commissioner Stefan Elgstrand, Chair Leah Simon-Weisberg, Commissioner Andy Kelley

Subject: Support for SB 466 – Costa-Hawkins Reform

RECOMMENDATION

Submit a letter in support of SB 466 (Wahab), which would reform the Costa-Hawkins Act. Send a copy of the letter to Governor Gavin Newsom, State Senators Nancy Skinner and Aisha Wahab, and Assemblymember Buffy Wicks.

BACKGROUND

Berkeley voters approved the Berkeley Rent Stabilization Ordinance in 1980, providing rent control to most tenancies. The passage of Costa-Hawkins in 1995 significantly gutted many provisions of the original ordinance, undermining strong rent control policies by enabling vacancy decontrol and exempting new construction from rent control. In Berkeley, this means that any unit built after 1980 – the past 43 years – cannot be covered under rent control. Berkeley has recently seen a boom in new construction, with 3,742 units permitted between 2015-2021 with many more in the pipeline. The 2023-2031 RHNA cycle calls on Berkeley to build around 9,000 new units, with Berkeley's approved Housing Element having capacity for an additional 15,000 units during this timeline. As time goes on, a smaller percentage of Berkeley's housing stock will be under rent control, making it more difficult for tenants to have stable housing in Berkeley.

When Costa-Hawkins was fully implemented in 1999, the average rent for a new tenancy in a two-bedroom unit in Berkeley was \$1,300 (\$2,070 in 2021 dollars). In 2021, the average rent for a new tenancy in a two-bedroom unit was \$2,990. The total inflation between 1999-2021 is 59%, yet the increase in rent during this timeframe is 123%, an increase that is over double the rate of inflation.

The Berkeley Rent Stabilization Board has consistently been on record as supporting reforming and/or repealing Costa-Hawkins as a means of fulfilling the Rent Stabilization Ordinance's purpose of protecting tenants from unwarranted rent increases and to help maintain the diversity of the Berkeley community. In 2018, under the recommendation of the Board, the City Council placed Measure Q on the ballot, which voters passed with over 71% in favor. Part of this measure would allow for "newly constructed" units, defined as a rental unit created after June 30, 1980, to come under rent control 20 years after the completion of construction in the event that Costa-Hawkins is repealed. Initially, the Rent

Stabilization Board and 4x4 Committee suggested a rolling exemption of 12-15 years, pending additional financial analysis.

SB 466, introduced by State Senator Aisha Wahab, would amend the Costa-Hawkins Act to allow for rent control to be implemented on residential units 15 years after the issuance of a certificate of occupancy. This is in line with the Board's previous recommendations on new construction exemptions.

CONTACT PERSON

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Attachments:

- 1: Letter of Support
- 2: Text of SB 466



March 16, 2023

The Honorable Aisha Wahab
California State Senate
1021 O Street, Suite 6530
Sacramento, CA 95814

Re: SB 466 - Support

Dear State Senator Wahab,

The Berkeley Rent Stabilization Board writes in strong support for SB 466, which would bring much needed reform to Costa-Hawkins, allowing for the expansion of rent control in new construction 15 years after its completion. As the governing board for Berkeley's Rent Stabilization and Eviction for Good Cause Ordinance, these reforms are needed to meet the Ordinance's purpose of protecting tenants from unwarranted rent increases and to help maintain the diversity of the Berkeley community.

When Costa-Hawkins was fully implemented in 1999, the average rent for a new tenancy in a two-bedroom unit in Berkeley was \$1,300 (\$2,070 in 2021 dollars). In 2021, the average rent for a new tenancy in a two-bedroom unit was \$2,990. The total inflation between 1999-2021 is 59%, yet the increase in rent during this timeframe is 123%, an increase that is over double the rate of inflation. Communities across California are facing similar situations, making the Californian dream less achievable for tenants.

With the State applying more pressure for local jurisdictions to develop additional housing, under Costa-Hawkins, all of this new construction is forever exempt from rent control. As time goes on, the percentage of rent controlled housing will decrease as a result, making it more difficult for tenants to have stable housing. Amending Costa-Hawkins to allow rent control in new construction after 15 years will provide much needed stability to tenants while allowing developers and property owners a fair rate of return.

Thank you for championing this important issue. If you or your staff have any questions or concerns, please do not hesitate to contact me or the Board's Legislative Advocate, Brian Augusta, at baugusta@piadvocates.org or (916) 400-3136.

Sincerely,

The Berkeley Rent Stabilization Board

CC: Governor Gavin Newsom
State Senator Nancy Skinner
Assemblymember Buffy Wicks

SENATE BILL**No. 466**

Introduced by Senator WahabFebruary 13, 2023

An act to amend Section 1954.52 of the Civil Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 466, as introduced, Wahab. Costa-Hawkins Rental Housing Act: rental rates.

Existing law, the Costa-Hawkins Rental Housing Act, prescribes statewide limits on the application of local rent control with regard to certain properties. The act generally authorizes an owner of residential real property to establish the initial rental rate for a dwelling or unit, except in specified circumstances, including, (1) when the residential real property has a certificate of occupancy issued after February 1, 1995, (2) when the residential real property has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units, and (3) when the residential real property is alienable and separate from title to any other dwelling units, except as specified.

This bill would instead authorize an owner of residential real property to establish the initial rental rate for a dwelling or unit when the residential real property has been issued a certificate of occupancy issued within the 15 years preceding the date on which the owner seeks to establish a rental rate under these provisions. The bill would also remove the above-described authorizations for an owner of residential real property to establish the initial rental rate if the residential real property (1) has already been exempt from the residential rent control pursuant to an ordinance of a public entity on or before February 1,

1995, and (2) when the residential real property is alienable and separate from title to any other dwelling units.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 1954.52 of the Civil Code is amended
2 to read:

3 1954.52. (a) Notwithstanding any other provision of law, an
4 owner of residential real property may establish the initial and all
5 subsequent rental rates for a dwelling or a unit about which ~~any~~
6 *either* of the following is true:

7 (1) It has ~~been issued~~ a certificate of occupancy issued ~~after~~
8 ~~February 1, 1995~~; *within the 15 years preceding the date on which*
9 *the owner seeks to establish a rental rate in accordance with this*
10 *section.*

11 ~~(2) It has already been exempt from the residential rent control~~
12 ~~ordinance of a public entity on or before February 1, 1995, pursuant~~
13 ~~to a local exemption for newly constructed units.~~

14 ~~(3)~~

15 ~~(2) (A) It is alienable separate from the title to any other~~
16 ~~dwelling unit or is a subdivided interest in a subdivision, as~~
17 ~~specified in subdivision (b), (d), or (f) (e) of Section 11004.5 of~~
18 ~~the Business and Professions Code.~~

19 ~~(B) This paragraph does not apply to either of the following: a~~
20 ~~dwelling or unit where the preceding tenancy has been terminated~~
21 ~~by the owner by notice pursuant to Section 1946.1 or has been~~
22 ~~terminated upon a change in the terms of the tenancy noticed~~
23 ~~pursuant to Section 827.~~

24 ~~(i) A dwelling or unit where the preceding tenancy has been~~
25 ~~terminated by the owner by notice pursuant to Section 1946.1 or~~
26 ~~has been terminated upon a change in the terms of the tenancy~~
27 ~~noticed pursuant to Section 827.~~

28 ~~(ii) A condominium dwelling or unit that has not been sold~~
29 ~~separately by the subdivider to a bona fide purchaser for value.~~
30 ~~The initial rent amount of the unit for purposes of this chapter shall~~
31 ~~be the lawful rent in effect on May 7, 2001, unless the rent amount~~
32 ~~is governed by a different provision of this chapter. However, if~~
33 ~~a condominium dwelling or unit meets the criteria of paragraph~~

1 (1) or (2) of subdivision (a), or if all the dwellings or units except
2 one have been sold separately by the subdivider to bona fide
3 purchasers for value, and the subdivider has occupied that
4 remaining unsold condominium dwelling or unit as his or her
5 principal residence for at least one year after the subdivision
6 occurred, then subparagraph (A) of paragraph (3) shall apply to
7 that unsold condominium dwelling or unit.

8 (C) Where a dwelling or unit in which the initial or subsequent
9 rental rates are controlled by an ordinance or charter provision in
10 effect on January 1, 1995, the following shall apply:

11 (i) An owner of real property as described in this paragraph may
12 establish the initial and all subsequent rental rates for all existing
13 and new tenancies in effect on or after January 1, 1999, if the
14 tenancy in effect on or after January 1, 1999, was created between
15 January 1, 1996, and December 31, 1998.

16 (ii) Commencing on January 1, 1999, an owner of real property
17 as described in this paragraph may establish the initial and all
18 subsequent rental rates for all new tenancies if the previous tenancy
19 was in effect on December 31, 1995.

20 (iii) The initial rental rate for a dwelling or unit as described in
21 this paragraph in which the initial rental rate is controlled by an
22 ordinance or charter provision in effect on January 1, 1995, may
23 not, until January 1, 1999, exceed the amount calculated pursuant
24 to subdivision (c) of Section 1954.53. An owner of residential real
25 property as described in this paragraph may, until January 1, 1999,
26 establish the initial rental rate for a dwelling or unit only where
27 the tenant has voluntarily vacated, abandoned, or been evicted
28 pursuant to paragraph (2) of Section 1161 of the Code of Civil
29 Procedure.

30 (b) Subdivision (a) does not apply where the owner has
31 otherwise agreed by contract with a public entity in consideration
32 for a direct financial contribution or any other forms of assistance
33 specified in Chapter 4.3 (commencing with Section 65915) of
34 Division 1 of Title 7 of the Government Code.

35 (c) Nothing in this section shall be construed to affect the
36 authority of a public entity that may otherwise exist to regulate or
37 monitor the basis for eviction.

38 (d) This section does not apply to any dwelling or unit that
39 contains serious health, safety, fire, or building code violations,
40 excluding those caused by disasters for which a citation has been

- 1 issued by the appropriate governmental agency and which has
- 2 remained unabated for six months or longer preceding the vacancy.

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