



Office of the Mayor

CONSENT CALENDAR

April 4, 2017

To: Honorable Members of the City Council
From: Mayor Arreguín and Councilmembers Harrison, Worthington, and Hahn
Subject: Support of AB 1506 – Repeal of Costa-Hawkins

RECOMMENDATION

Adopt a Resolution in support of Assembly Bill 1506, which will repeal the Costa-Hawkins Rental Housing Act. Send a copy of the Resolution to Governor Jerry Brown, State Senator Nancy Skinner, and Assemblymembers Tony Thurmond and Richard Bloom.

BACKGROUND

The Costa-Hawkins Rental Housing Act was adopted in 1995 and went into full effect in 1999. This law allowed for vacancy decontrol of rent controlled units, undermining strong rent control policies such as those in the City of Berkeley. Berkeley's Rent Control Ordinance, which was adopted by the voters in 1980, provides tenants protection against evictions without good cause or "unwarranted rent increases". Because of vacancy decontrol under Costa-Hawkins, a new rental rate can be established upon vacancy of a unit, effectively placing rent controlled units at market-rate levels, which is unaffordable for most tenants.

According to data from the Rent Stabilization Board, in 1999 when Costa-Hawkins was first implemented, the average rent to a new tenant for a 2 bedroom unit was \$1,150 (\$1,657 in 2016 dollars). In 2016, this average increased to \$2,795. While the cumulative rate of inflation from 1999-2016 was 44.1%, new tenants experienced an increase of 143.0% for 2 bedroom units - an increase of over three times as much as the rate of inflation.

Such statistics are even more profound over the past five years. From 2011-2016, rents for new tenancies in 2 bedroom units rose from \$1,700 to \$2,795, an increase of 64.4%. Inflation rose by 6.7% during the same time period, meaning that rents over the past five years have risen almost 10 times as fast as the rate of inflation.

The City of Berkeley has consistently been on record as to its opposition and concerns regarding Costa-Hawkins. The City Council has twice called upon the state legislature to change Costa-Hawkins, once in November 2009, and more recently in October 2015 (see Attachment 3 for Resolution No. 67,245-N.S., Urging the State Legislature and

Governor to Repeal the Costa-Hawkins Housing Act). In 2016, the Rent Stabilization Board created the Ad-Hoc Committee on the Effects of Costa-Hawkins to look into the impacts vacancy decontrol has had in Berkeley.

AB 1506, introduced by Assemblymember Richard Bloom and cosponsored by Assemblymembers Rob Bonta and David Chui, would repeal Section 1954.50 of the Civil Code, known as the Costa-Hawkins Rental Housing Act. If AB 1506 is signed into law, this will allow existing rent ceilings to remain in place for each new tenancy.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No adverse effects to the environment.

CONTACT PERSON

Jesse Arreguin, Mayor 510-981-7100

Attachments:

- 1: Resolution
- 2: Text of AB 1506
- 3: Resolution 67,245-N.S.

RESOLUTION NO. ##,###-N.S.

RESOLUTION IN SUPPORT OF AB 1506 –
REPEAL OF THE COSTA-HAWKINS RENTAL HOUSING ACT

WHEREAS, in 1980, the voters of Berkeley adopted a Rent Stabilization Ordinance which established a system of rent control for all units constructed prior to 1980. The ordinance regulates the rents of most residential rental units in the City of Berkeley and provides protection to tenants against eviction without good cause and against “unwarranted rent increases” to maintain affordable housing and preserve the community’s diversity; and

WHEREAS, in 1995, the California State Legislature adopted the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50-1954.535), undermining Berkeley’s system of strong rent control and allowing a property owner to establish a new rental rate for each new tenancy, allowing unlimited increases upon vacancy and then recontrol of rents; and

WHEREAS, since Costa-Hawkins was fully implemented in 1999, rents have increased by 143% from 1999-2016, almost 3 times the rate of inflation; and

WHEREAS, over the past five years, the effects of Costa-Hawkins has been even more profound, as rents for new tenancies in 2 bedroom units rose from \$1,700 to \$2,795 between 2011-2016, an increase of 64.4%, or almost 10 times as fast as the rate of inflation; and

WHEREAS, the City of Berkeley has consistently been on record as to its opposition and concerns regarding Costa-Hawkins, with the city Council having twice voted to express its opposition to Costa-Hawkins; and

WHEREAS, on October 27, 2015, the Berkeley City Council unanimously passed Resolution No. 67,245-N.S., Urging the State Legislature and Governor to Repeal the Costa Hawking Rental Housing Act; and

WHEREAS, the Resolution states that if the Legislature decides not to outright repeal the Costa-Hawkins Act, we urge the adoption of following amendments, and direct our lobbyist to advocate for any of these amendments:

1. Clarify that it does not apply to inclusionary housing;
2. To allow local governments to apply rent stabilization to buildings 10 years after they receive their certificate of occupancy;
3. Restore vacancy control to buildings; or
4. Establish a limit on the amount of a vacancy increase; and

WHEREAS, in 2016, the Rent Stabilization Board created the Ad-Hoc Committee on the Effects of Costa-Hawkins to look into the impacts vacancy decontrol has had in Berkeley; and

WHEREAS, AB 1506, introduced by Assemblymember Richard Bloom, would repeal the Costa-Hawkins Act.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports AB 1506.

BE IT FURTHER RESOLVED that if the State Legislature chooses to make amendments to Costa-Hawkins instead of overturning it, they follow the recommendations listed in Resolution 67,245-N.S.

BE IT FINALLY RESOLVED that copies of this Resolution be sent to Governor Jerry Brown, State Senator Nancy Skinner, and Assemblymembers Tony Thurmond and Richard Bloom.

ASSEMBLY BILL

No. 1506

Introduced by Assembly Members Bloom, Chiu, and Bonta
(Coauthor: Senator Allen)

February 17, 2017

An act to repeal Chapter 2.7 (commencing with Section 1954.50) of Title 5 of Part 4 of Division 3 of the Civil Code, relating to tenancy.

LEGISLATIVE COUNSEL’S DIGEST

AB 1506, as introduced, Bloom. Residential rent control: Costa-Hawkins Rental Housing Act.

The Costa-Hawkins Rental Housing Act prescribes statewide limits on the application of local rent control with regard to certain properties.

This bill would repeal that act.

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. Chapter 2.7 (commencing with Section 1954.50)
2 of Title 5 of Part 4 of Division 3 of the Civil Code is repealed.

3

4

5 **CORRECTIONS:** _____

6 **Heading—Lines 1 and 2.**

7

O

RESOLUTION NO. 67,245–N.S.

URGING THE STATE LEGISLATURE AND GOVERNOR TO REPEAL THE COSTA-HAWKINS RENTAL HOUSING ACT

WHEREAS, in 1980, the voters of Berkeley adopted a Rent Stabilization Ordinance which established a system of rent control for all units constructed prior to 1980. The ordinance regulates the rents of most residential rental units in the City of Berkeley and provides protection to tenants against eviction without good cause and against “unwarranted rent increases” to maintain affordable housing and preserve the community’s diversity; and

WHEREAS, an “unwarranted rent increase” is an increase that provides additional “unearned” rent to owners and investors that is not based on the work they do to operate, maintain or improve the property, but is based on increasing rents tenants are willing to pay due to the scarcity of housing; and

WHEREAS, from 1979 to the end of 1998, Berkeley controlled rents on both vacant and occupied rental units. When a new tenancy occurred the prior rent ceiling would continue in effect and could not be increased except through annual increases approved by the Rent Board, or through individual rent adjustments. These “vacancy controls” keep rents stable and prevented large “unwarranted” rent increases which could displace tenants; and

WHEREAS, in 1995, the California State Legislature adopted the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50-1954.535), undermining Berkeley’s system of strong rent control and allowing a property owner to establish a new rental rate for each new tenancy, allowing unlimited increases upon vacancy and then re-control of rents; and

WHEREAS, in the 20 years since the adoption of Costa-Hawkins, Berkeley has seen a dramatic spike in rents which has resulted in a severe affordability crisis. According to figures from the Rent Board, prior to the full implementation of Costa-Hawkins in 1999, the average rent was \$814. This increased to an average rent of \$1,602 in 2013.¹; and

WHEREAS, since 1999 fully 85% of all rent stabilized apartments have turned over at least once and the rent has increased to the much higher levels typical of the Bay Area’s dysfunctional housing market; and

WHEREAS, Costa-Hawkins has resulted in significant disparities in the amount of income tenants are paying for rent. According to a 1998 Rent Board survey, 30 percent of tenants in 1988 reported paying more than 30 percent of their monthly income on rent. According to recent statistics, this figure has risen to one-third of renter households paying more than 50% of their income on rent; and

¹ 2015-2023 Berkeley Housing Element, Table 6-30, Page 196

WHEREAS, proponents of Costa-Hawkins argued that the bill was necessary to give owners a fair return on their investment and to help fix up older rent-controlled properties; and

WHEREAS, the reality is that Costa-Hawkins resulted in rent increases dramatically beyond the pace of inflation, and has not resulted in significant reinvestment in rent controlled properties; and

WHEREAS, today the average decontrolled rent is up by over 50% after adjusting for inflation. Berkeley tenants now pay an additional \$100 million annually in rent over and above the increases needed to provide owners with a fair return on their investment but only 10% of the increased rent is being reinvested in the community through building renovations and increased tax payments.²; and

WHEREAS, the value of Berkeley rental property has doubled, increasing by \$1.2 to \$1.5 billion based on the increased net operating income. Owners of 70% of these rental properties have old assessed values that give the owners a tax break totaling approximately \$10 million annually; and

WHEREAS, the reality is that Costa-Hawkins has resulted in “unwarranted” rent increases, creating significant windfall profits for owners, while exacerbating the regional housing crisis; and

WHEREAS, in 2009, the California Court of Appeal in its decision in *Palmer v. City of Los Angeles*, determined that inclusionary zoning requirements are prohibited under the Costa-Hawkins Act, since the law prohibits government entities from establishing new rental rates. Overnight inclusionary policies, which were an important tool to create affordable housing, were thrown out statewide, making it more difficult for local governments to address the state’s affordability crisis; and

WHEREAS, the adopted 2001 Berkeley Housing Element included the following action; “*Support the repeal of the vacancy decontrols of the 1995 Costa-Hawkins Bill or pursue other means to provide city autonomy to stabilize rents through vacancy controls*”; and

WHEREAS, in this unprecedented housing crisis, it is important that we explore all options to preserve affordability and prevent displacement; and

WHEREAS, by repealing Costa-Hawkins and allowing local governments to stabilize rents through vacancy controls, cities will have an important tool to keep rents from rising even further; and

WHEREAS, if Costa-Hawkins were repealed, under Berkeley’s system of rent control existing rent ceilings would remain in effect for each new tenancy. This would lock in the current higher market rents, but would not allow rents to skyrocket even further.

² “Rent Stabilization and the Berkeley Rental Housing Market 15 Years after Vacancy Decontrol”, Berkeley Rent Board, January 2013, http://cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/Summary%20of%20Economic%20Studies%20Part%20I.pdf

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby urges the California State Legislature and Governor Jerry Brown to adopt legislation repealing the Costa-Hawkins Rental Housing Act.

BE IT FURTHER RESOLVED by the Council of the City of Berkeley, if the Legislature decides not to outright repeal the Costa-Hawkins Act, we urge the adoption of following amendments, and direct our lobbyist to advocate for any of these amendments:

1. Clarify that it does not apply to inclusionary housing;
2. To allow local governments to apply rent stabilization to buildings 10 years after they receive their certificate of occupancy;
3. Restore vacancy control to buildings; or
4. Establish a limit on the amount of a vacancy increase.

BE IT FURTHER RESOLVED that copies of the Resolution be sent to Governor Jerry Brown, State Senator Loni Hancock and State Assemblymember Tony Thurmond.

The foregoing Resolution was adopted by the Berkeley City Council on October 27, 2015 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Droste, Maio, Moore, Wengraf, Worthington and Bates.

Noes: None.

Absent: None.



Tom Bates, Mayor

Attest: 

Mark Numainville, City Clerk