



**Rent Stabilization Board
Office of the Executive Director**

DATE: May 4, 2016

TO: Honorable Members of the Eviction/Section 8/Foreclosure Committee

FROM: Jay Kelekian, Executive Director
Matt Brown, Staff Attorney

SUBJECT: Summary of Ellis Act Evictions (1986 – 2016)

Background

The origins of the Ellis Act (Gov't Code sections 7060 *et seq.*; "the Act.") are found in *Nash v. City of Santa Monica* (1984) 37 Cal.3d 97. The plaintiff in *Nash* argued that rent control was a form of indentured servitude, and it was unconstitutional to force him to continue as a landlord by not being able to evict his tenants at will. The California Supreme Court disagreed and found that a city's interest in maintaining adequate rental housing outweighed a landlord's interest in demolishing his residential rental property provided the landlord was receiving a fair return on his investment. In 1985, in direct response to the *Nash* decision, the Legislature adopted the Ellis Act which provides that: "[n]o public entity . . . shall . . . compel the owner of any residential real property to offer, or to continue to offer, accommodations in the property for rent or lease." (Gov't Code §7060(a).) Thus, the Act gives property owners an absolute right to leave the residential landlord-tenant business. Accordingly, a claim that a landlord is going out of the residential rental business is good cause for eviction. The Ellis Act does not expressly create new or additional rights to change the use of the property after the property owner regains possession of the rental units and, in fact, allows cities to maintain control over most land use issues.

In an attempt to insure that this right to evict sitting tenants is not abused, the Act authorizes a municipality to place the following constraints on a property that has been removed from the residential rental market. The City Council codified Berkeley's various restrictions in the Ellis Implementation Ordinance (Berkeley Municipal Code Section 13.77):

- For all tenancies commenced within 5 years of the date of filing of the notice of intent to withdraw accommodations from rent or lease or the date the accommodations were withdrawn from the market, whichever is later, the accommodation must be rented at the lawful rent in effect at the time the notice is filed, plus the annual adjustments granted by the Berkeley Rent Board. (B.M.C. 13.77.040A.)

- If the accommodations are rented within 2 years of being withdrawn from the rental housing market, the owner shall be liable to the displaced tenants for actual and punitive damages. (B.M.C. 13.77.040B.)
- If the accommodations are re-rented within 10 years of the date of withdrawal, the accommodation must first be offered to the displaced tenant(s). (B.M.C. 13.77.040C.)
- In addition, the Condominium Conversion Ordinance prohibits owners from applying to convert the building to condominiums for at least 10 years following the filing of an Ellis notice. (B.M.C. 21.28.060C. and 21.28.090B.)

The Ellis Act and Implementation Ordinance authorize accommodations to be withdrawn from the market following at least 120 days notice to the tenants. (Gov't Code §7060.4(b). and B.M.C. 13.77.050A.1.) The date of withdrawal is extended to one year for tenants who are disabled or 62 years of age or older, have lived in the unit for at least one year and have timely notified the owner of qualification for this extended notice period. (Gov't Code §7060.4(b). and B.M.C. 13.77.050A.8.)

The Ellis Implementation Ordinance has been revised several times throughout the years to account for changes in state law and to adjust relocation benefits. In the ordinance, the Council initially established relocation benefits of \$4,500, an amount that tracked the relocation benefits given to low-income tenants who are displaced due to owner move-in evictions. In subsequent years, Council has revised the Ellis Implementation Ordinance to remove the requirement that a household be low-income to receive relocation benefits. These benefits were last adjusted by Council in December of 2007.¹ Currently, the relocation benefits are \$8,700 per household if the tenancy began after January 1, 1999, and \$13,700 if the tenancy began before January 1, 1999. Also, a landlord must pay an additional \$2,500 to tenant households that are low-income; or include elderly, disabled, or minor children. At the request of the Council and as permitted under City of Berkeley Charter Article XVII Section 123(4), the Rent Board monitored compliance with the Ellis Act from 1986-1991. Monitoring compliance was returned to the City in Spring 1991. The City monitored compliance from 1991 through 1999. The Board resumed monitoring compliance in 2000. The Board counsels landlords and tenants regarding the Ellis Act; receives and reviews all Ellis notices; contacts tenants following receipt of notices; holds the relocation funds in escrow and distributes funds at the appropriate time; files the notice of constraints with the County; and continues to monitor rental occupancy of units that were withdrawn from the rental market on a periodic basis.

¹ Inflation and market rents have increased significantly since the Council last amended the Ellis relocation amounts in 2007. If the Committee wishes to review that information, staff can put together a report in the near future. Additionally, the Board is currently putting forth a proposal for Council to place on the November ballot this year (endorsed by the 4 x 4 Committee) to significantly increase relocation payments required for all owner move-in evictions. At some point in the near future the Board may wish to advocate to Council to increase Ellis relocation payments particularly given the significant increase in Ellis activity over the last several years.

The number of Ellis evictions filed in Berkeley decreased precipitously since 51 units were removed in 2001. From 2007 – 2010 only 36 units were served with Ellis evictions, and the Board received no Ellis Act eviction notices in 2011 or 2012. Nevertheless, Ellis activity has increased significantly in the last two years as rents have skyrocketed to historic heights. The year 2015 saw 21 units removed by way of the Ellis Act – the most since 26 were removed in 2006 – and 11 units have either been removed or targeted for removal this year already.

The following data is taken from the Board's and City's Ellis Act files:

Ellis Bill Filings Since July 1986

Calendar Year	# of Properties Filed	Total Number of Units	Comments
1986	1	6	
1987	3	7	
1988	2	5	
1989	8	19	
1990	14	52	12 unit bldg
1991	8	18	
1992	6	23	
1993	6	26	12 unit bldg
1994	2	2	
1995	2	4	
1996	2	19	12 unit bldg
1997	4	5	
1998	3	4	
1999	4	7	
2000	2	5	
2001	17	51	
2002	9	24	
2003	8	17	
2004	6	21	
2005	2	3	
2006	7	26	
2007	4	8	
2008	6	11	
2009	2	8	
2010	2	11	
2011	0	0	
2012	0	0	
2013	2	7	
2014	3	10	
2015	6	21	
2016*	3	11	
Totals	144	431	

*Totals through April 26, 2016

Size of the Buildings Taken off the Market

Number of Units in Bldg	Total Ellis Filings	% of Total Filings
1 Unit	45	31%
2 Units	33	22.7%
3 Units	20	14%
4 Units	21	14.1%
5 Units	4	2.8%
6 Units	12	8.3%
7 Units	3	2.1%
8 Units	3	2.1%
9 Units	1	0.7%
10 Units	0	n/a
11-15 Units	3	2.2%
16 or More Units	0	n/a

ELLIS RELOCATION BENEFITS

Berkeley		\$8,700 for post-1/1/99 tenancy \$13,700 for pre-1/1/99 tenancy Add \$2,500 for disabled/elderly/low-income or family with minor)
San Francisco		Up to \$5,555.21 per tenant (\$16,665.59 max) ² depending on when filed ³ Add \$3,703.46 for each elderly or disabled tenant
Santa Monica	Studio	\$8,650 (\$9,900 for disabled, elderly, family with minor)
	1 Bedroom	\$13,300 (\$15,350 for disabled, elderly, family with minor)
	2+ Bedrooms	\$18,050 (\$20,750 for disabled, elderly, family with minor)
West Hollywood	Studio	\$6,180
	1 Bedroom	\$8,726
	2 Bedroom	\$11,754
	3+ Bedrooms	\$15,512
	Disabled/elderly/terminally ill/moderate income or minor child	– \$16,359
	Low-income	\$20,600

² These were relocation expenses required for all San Francisco Ellis evictions that occurred between 3/1/15 – 2/29/16. Staff was unable to find updated information regarding current relocation expenses, but this information very closely approximates the actual current numbers, since they are increased using an annual inflation adjustment.

³ San Francisco raises the relocation amount each year. San Francisco had amended its relocation benefits to significantly increase payments for tenants forced to leave due to Ellis Act evictions, but that law was found unconstitutional on October 21, 2014, in a court case (*Levin v. City and County of San Francisco*).