



Tenant Times

Fall, 2011

SFTU Endorsements: Avalos for Mayor, Onek for District Attorney, Mirkarimi for Sheriff

John Avalos for Mayor—sole endorsement.

Only one candidate has strong enough pro-tenant positions to warrant the endorsement of the SF Tenants Union: Supervisor John Avalos. Since his election to the Board of Supervisors in 2008, Avalos has sponsored or co-sponsored every piece of pro-tenant legislation (including a measure that stopped post-foreclosure evictions of tenants, and another that provides anti-eviction protections for households with children) at the Board. Avalos also took the lead in the fight this year to save the 1,500 sound Perkmenced apartments from being demolished demolition, and as head of the Budget Committee stopped then-Mayor Newsom's plan to let all TICs automatically become condominiums. Volunteering for Avalos's campaign is as important as voting for him—volunteer effort is the only way to offset the lavish real estate and corporate funding other mayoral candidates are receiving

David Onek for District Attorney

Besides Avalos for Mayor, the Tenants Union also endorsed David Onek for District Attorney Onek has a strong grasp of tenant-landlord issues and will not be afraid to prosecute landlords for illegal evictions, tenant harassment or other criminal violations of rent control laws. He's firmly against the death penalty and the 3 strikes law.

Ross Mirkarimi for Sheriff

Mirkarimi, soon to be a termed out Supervisor District 5, was endorsed for Sheriff. As a Supervisor, Mirkarimi had a 100% pro-tenant voting record and he will continue to be the innovative type of Sheriff which Mike Hennessey has been ensuring that evictions are handled humanely and the jails are run humanely.

San Francisco Propositions

Proposition A (School Bonds) – YES Our schools are need major repairs and capital improvements and this bond measure which will provide needed funds for those. Most children in San Francisco live in rent controlled apartments and if we want to keep families in San Francisco, we need to not only stop evictions of families with children but also to make sure schools are in good shape. There is no passthrough of this bond, via a rent increase, to tenants.

Proposition B (Road Bonds) – NO While our roads are in horrible shape, this bond measure is not the way to deal with them. Gavin Newsom ignored and neglected routine maintenance of streets for years and now they're a mess, But a bond is not the way to do it. With interest costs, we will spend \$3 for every \$1 spent on the roads if we pay for these repairs with a bond. The current and future Mayors need to fix the roads and do it as part of our annual budget, not with a costly bond. This bond's costs will be passed on to tenants via a rent increase.

Proposition C & D (Attack on Workers) – NO, NO, NO So called pension reform is the right wing wedge issue of the day and these attacks on workers via "pension reform" are on ballots in various states this year and were front and center during Wisconsin Governor Scott Walker's attack on unions there earlier this year. Prop C & D are similar in what they'll do to pensions and health care benefits for workers with the main difference between the two being how they got on the ballot. Prop C was put on the ballot by Mayor Ed Lee after negotiations with

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SFTU Endorsements Vote November 8!

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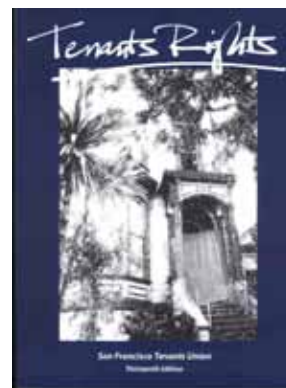
unions while Prop D was put on the ballot by a group of right wing, millionaires. If both win, whichever one gets the most votes will prevail and unions agreed to negotiations hoping to mitigate damages to themselves. Hopefully, San Francisco voters will see pension reform as the right wing, wedge issue it is and reject both.

Proposition E (Lets Supervisors Overturn Will of Voters) – NO, NO, NO Tenants have won huge protections at the ballot box, including the expansion of rent control, limits on rent increases, and nine different protections against evictions. Prop E would change all that: it lets Supervisors amend or even repeal measures passed by the voters. We could take an issue to the ballot, win on election day, and then see the Supervisors repeal what the voters did! (And remember, there is no guarantee that there will always be a strong progressive element on the Board.) Vote NO on E if you want to keep rent control strong—and if you believe in democracy.

Proposition F (Paid Lobbyist Filings) – NO, NO, NO Prop F will weaken San Francisco's ordinance requiring paid lobbyists to register and report on their lobbying activities. Most notably, Prop F will require fewer lobbyists and campaign consultants to actually register and file and, while requiring more filings each year, will let lobbyists work on behalf of legislation for weeks or months before they have to actually file (as opposed to right now, when they have to file when they begin work) which will mean lots of stealth lobbying. Downtown corporations and landlords use paid lobbyists, not tenants or workers. Vote No.

Proposition G (Sales Tax) – NO We do need revenue measures but a sales tax is the worst way to get revenue. Sales taxes are regressive and thus are a tax on the poor and middle classes. We need to be taxing the many millionaires in San Francisco, not the people who are struggling to survive in this economy. Or let's tax landlords instead; how about a landlord tax structured so the more rent the landlord charges the more taxes they pay. If they keep their rents affordable the tax would be minimal but if they charge exorbitant rents then they pay huge taxes.

Proposition H (Neighborhood Schools) – NO. Prop H will limit parent choice in deciding which schools their children should attend by narrowly defining school attendance areas on a geographic basis. Prop. H takes away parents' rights to find a school of their choice.



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Supervisors & Mayor Approve Demolition of 1,500 Rent Controlled Apartments at Parkmerced; Referendum Attempt Falls Short But Court Case Could Still Stop Demolitions

Despite tenants fiercely fighting it, the demolition of over 1,500 rent controlled apartments at Parkmerced was approved by the Board of Supervisors and signed by Mayor Ed Lee and then a last ditch effort to get a referendum, where voters would approve or reject the demolitions, on the ballot fell just short. At this point, only a lawsuit which was filed to contest the project's Environmental Impact Report (EIR) can stop the demolitions.

The fight for votes at the Board of Supervisors to stop the demolitions was intense. Sups. Avalos, Campos, Kim, Mar & Mirkarimi were firm in their opposition, leaving Sup. David Chiu in the swing position. Chiu, who had been solid on tenant issues, was undecided through all the discussions and hearings and even the day before the vote it was unclear which way he would go. There was some hope by tenants that Chiu would get the vote delayed until the Supervisors could get a declaratory judgment from the courts as to whether the promise to replace the demolished units with rent controlled units would be legally enforceable (as state law prohibits any form of rent limitations on new construction), but on the day of the vote, rather than going that route Chiu introduced a package of amendments which supposedly would provide tenants with additional protections and safeguards. The problem with the package, tenants testified, was that they all hung on the same premise and issue: does state law prohibit rent controls on the replacement units? But, Chiu was unmoved and, despite protests that dozens of amendments were introduced at a committee hearing the morning of the Board's scheduled vote and the vote should be delayed, the Board narrowly approved the Parkmerced demolitions by a 6-5 vote, with Chiu being the swing vote. Parkmerced tenants at the Board to witness the vote were outraged: three senior tenants who stood up to protest the vote were dragged out of the meeting by the Sheriffs.

Immediately after the vote, the Tenants Union, Tenants Together and the Affordable Housing Alliance met to assess whether or not a referendum would be possible. A referendum is a process in which a law passed by the Supervisors and signed into law by the Mayor can be placed before the voters, with the electorate either approving that law or rejecting it. It's a difficult task: there is just 30 days after the Mayor signs legislation to collect about 15,000 valid signatures (meaning well over 20,000 need to be collected) and on development projects courts have added an extra hurdle, requiring

the petitions to contain all the various documents referenced in the actual ordinance, resulting (in this case) in a 70-page petition which took a few precious days to prepare and print. But, despite a herculean effort which resulted in 19,000 signatures collected in just three weeks, when the Department of Elections ran its validity check the effort fell just a thousand signatures short.

The remaining barrier to the demolitions now is a lawsuit filed by San Francisco Tomorrow challenging the EIR of the project. That case is in its early stages and has not yet had a trial date set so it will likely be a number of months before that case is actually heard. The issues in that case deal largely with environmental concerns but one aspect of the suit is based on the failure of Stellar and the city to consider an alternative plan which did not have any demolitions as part of it.

During the fight to stop the demolitions, many of the Supervisors failed to grasp some fundamental aspects as to why people were opposed. First, the demolition of the entire Garden Apartment complex—a neighborhood and community in and of itself—was destroying peoples' homes and neighborhood. Like anybody else, tenants did not want their homes demolished regardless of any promises of replacement housing. Demolition of this scale had never happened in San Francisco after the debacle of the Fillmore redevelopment in the 1960s or the horror of the International Hotel demolition in the 1970s and Parkmerced tenants realized they were facing the same fate as the tenants in those ill advised demolitions. Second, most of the tenants realized they would be displaced long before the issue of whether rent control on the new units was legal or not. Assuming the rent control would be held legal, the Parkmerced landlord would have a huge motivation to get rid of long term tenants paying low rents and replace those tenants with new tenants paying high rents. In fact, during discussion with Stellar Management tenants had proposed that the rents on the new units be the rents as of the day the Development Agreement was adopted (i.e. the rents right now) rather than the rents the tenants are paying when the new units are built. Stellar refused to do that, admitting that the "economics did not work" if they did that. In other words, Stellar admitted they planned on replacing low rent tenants with high rent paying tenants before the new units would be built.

Ultimately, it is expected that Stellar will sell

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Court Says Landlords Can Make Unilateral Changes to Rental Agreements, Which Will Likely Lead to Evictions

Back in 1997, tenants began facing an eviction epidemic which was so unfair that the Rent Board unanimously—meaning even the landlord commissioners were outraged—adopted Regulation 12.20, which prohibited evictions of tenants for violating provisions in their rental agreements which the landlord unilaterally imposed on the tenant. Almost 15 years later that epidemic is on the verge of starting again due to a court ruling which said state law overrides Regulation 12.20.

In 1997, tenant groups began seeing tenants after tenants come in for counseling with eviction notices based on the just cause of “breach of rental” agreement. The twist was that the violation in all cases was a provision which the landlord had just imposed on the tenant—not a provision which had been in the agreement since day 1 and which the tenant agreed to and knew about. The evictions were often absurd and the one case which caused even the landlord commissioners on the Rent Board to gasp was an elderly couple who had been told their lease now had a “no pets” clause and 30 days later they received an eviction notice because their goldfish violated this new provision. Most being evicted were similar: long-term tenants paying affordable rents, most of them seniors, and the “no pets” change was common as landlords felt these tenants would be unlikely to get rid of their dog or cat

Supervisors & Mayor Approve the Demolition of 1,500 Rent Controlled Apartments

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Parkmerced to another landlord. Stellar almost defaulted on their loan for the property earlier this year (and just this week almost defaulted on a 1,300 unit apartment complex in New York City). The approval of the plans to demolish units and build new luxury housing stays with the land, not the landlord, and these entitlements significantly increased the value of the property. This brings significant more risk to the promise of replacing units with rent controlled units: whoever ends up with the property will not be the landlord who made these promises and thus they will be likely to challenge them. Even if Stellar hung onto the property, though, their past behavior with similar complexes is troubling. Independence Plaza tenants, from the complex Stellar almost defaulted on this week, have sued Stellar after Stellar claimed all the apartments there were exempt from rent control (the tenants are expected to prevail in court).

(or goldfish!) which had been a part of their family for years and years. Greed was the force behind all these evictions: landlords didn't care about the pet, or the tenant's use of the back yard or storage room or laundry room. Rather, they wanted to get rid of tenants with low rents and bring in tenants paying higher rents. Luckily Regulation 12.20 put an end to that epidemic.

But now it is surfacing again and tenant groups are seeing tenants come in with notices from their landlords informing the tenant that some provision of the rental agreement is being changed by the landlord. This is thanks to a Superior Court decision last year which was upheld earlier this year by the Appellate Division of Superior Court. In *Marino v. Hernandez*, the court ruled that California Civil Code Section 827, which enables a landlord to change the terms of a tenancy with 30 days notice, overrides Rent Board Regulation 12.20, which provides that a tenant may not be evicted for violating a term of the rental agreement which had been newly imposed on the tenant (note that 12.20 does not prohibit a landlord from imposing a new term but instead prohibits a landlord from evicting based on a violation of that new term). The facts of the case were unsurprisingly close to the 1997 wave of evictions: the tenant, who had lived there for decades, was a senior and had an affordable rent, had a subtenant who he'd been living with for some time. The landlord amended the rental agreement to say “no sub tenants” and then evicted the tenant for violating the new “no sub tenant” clause.

More of these are expected based on the number of tenants who have been coming in with notices announcing unilateral changes in their rental agreements and the San Francisco Apartment Association, the landlord group, recently had an article in their magazine informing landlords about this new court case. As just a decision of Superior Court (even if it's the Appellate Division), the case has no official impact on what other judges do, but indications are that other Superior Court judges may be inclined to follow it. In the meantime, SFTU counselors are advising tenants who receive one of these notices to write the landlord back saying you do not agree to the unilateral change and citing Regulation 12.20 which prohibits evictions. Beyond that, legislation has been drafted which will “codify” Regulation 12.20, i.e. taking it out of the Regulations and putting in the Rent Ordinance where it will have more weight and would be more likely to withstand any ensuing court case on this issue (Sup. John Avalos has agreed to sponsor that legislation).