

Tenant Times

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Setting The 2003 Agenda

In 2002, the good news was that tenants gave landlords a sound drubbing, with the overwhelming defeat of Proposition R (the condo conversion/rent control repeal measure). The bad news was that after defeating the measure we were exactly where we had been on January 1, 2002—rather than advancing our rights we had fought to maintain status quo.

In 2003, the good news is that rents and evictions are lower than they were at the peak of the housing crisis. The bad news is that they're both 50% higher than when the eviction crisis began!

2003 is an important year for tenants. We have a Mayor's race and one of the most anti-tenant Mayoral candidates (Gavin Newsom) ever and being a renter in San Francisco remains as difficult as it ever was. Both for the sake of the tenants movement and the Mayoral race it's vital that tenants take back the agenda this year. We can not afford to spend another year on the defensive. And with a Mayoral race we can not afford to let someone like Newsom set the agenda—rather we need to set the agenda and let Newsom and the other candidates react to it.

Towards that end, tenants will come together from across the city on March 29 for a Citywide Tenants Convention to identify the hot issues facing San Francisco renters right now and to brainstorm possible solutions. The convention will culminate with an action plan. Specifically decided will be whether or not to place the proposed solution as a measure on this November's ballot.

The 2003 convention is modeled after similar efforts in past years. Previous conventions have successfully identified issues which were of concern to large numbers of renters, yet not fully recognized by tenant groups or politicians. They have further served to organize and energize the tenants movement. And they've led to significant changes in tenant protections in San Francisco, such as bringing all 2-4 unit buildings under rent control and lowering the automatic annual increase from the previously-guaranteed 4%-plus a year.

This year's effort is being organized by the Tenants Union in conjunction with other tenant groups plus organizations like Senior Action Network, SEIU Local 790, and Council of Community Housing Organizations). The convention will take place on Saturday, March 29, from 11 AM to 4 PM at the State Building at 455 Golden Gate Ave. Food and refreshments will be served.

The general agenda for the day will be in three parts: initially identifying the various issues and concerns for tenants, then developing possible solutions and finally developing an action plan on one solution. Tenants will be asked to bring ideas and proposals for discussion.

Some of The Issues For A 2003 Agenda

Already there are a number of ideas which have been percolating around the city and many of these will be discussed at the March 29 convention. These issues are highlighted here as a starting point for people to think about other ideas—it's hoped that the convention will bring forth many ideas from the grass roots.

See Page 8 For Some Ideas

On March 29 We Want Your Ideas!

On Page 8 are some ideas which have been kicked around in recent years and months. Most of these ideas originated from Tenants Union members frustrated at the housing situation in San Francisco and bringing forth new ideas. At the Tenant Convention on March 29, we want to hear your feedback on ideas such as these but we also want to hear new and exciting ideas.

Citywide Tenants Convention

Rents and evictions remain sky-high in San Francisco. Even though rents have come down from their peak, they are still 50% higher than when the dot-com fueled housing crisis began. The city leads the country in rent increases, evictions and homelessness. Surviving as a renter in San Francisco is just as difficult now as ever. On Saturday, March 29, tenants from all over the city will come together for a Citywide Tenants Convention to identify the pressing issues for renters in San Francisco and to develop ideas for solutions. In this important Mayoral election year we will also look at placing a measure on the ballot this Fall so that our ideas will become law.

What Are Your Concerns?

What are the issues which you are concerned about as a renter in San Francisco?

- The high rents on vacant apartments?
- Rent increases—even with rent control—squeezing you out of your home?
- Afraid you'll be evicted for "landlord move-in" or under the Ellis Act?
- Afraid you'll lose your job (or already lost it) and still have sky-high rent?
- Paying so much of your income to your rent that there's no money to spare?
- Paying top dollar but can't get landlord to make repairs?
- What Else???

Bring Your Concerns To The Convention

We will discuss your ideas and ideas like:

- Limiting Rent To 33% of Income
- Rolling Back Rents To Pre-Dot-Com Levels
- Freezing Rents While Unemployment Remains High
- Requiring Landlords To Give Building Equity For Rent
- Restricting No-Fault Evictions
- AND YOUR IDEAS!

Saturday, March 29
State Building, 455 Golden Gate
11 AM-4 PM

Supervisors Look To End Inequities In Rent Control Law

Over the years, bad court decisions and bad Rent Board regulations have left San Francisco's rent control law with a bunch of inequities and in need of some clean-up and technical fixes to bring it back to where it was.

For example, a recent court decision said that landlords could raise rents if a tenant moved in their spouse or domestic partner—or they could even be evicted!! That ruling, though, is based on a technical legal point and is easily fixed. And then there's landlord biases written into the Rent Board regulations, such as letting landlords evict people from their garages or limiting how far back tenants can go to recoup illegal rent increases (while having no such limit for landlords looking to raise rents).

To address these 20 years worth of weird and unfair aberrations in the rent control law, Sup. Mat Gonzalez has introduced a package of rent control fixes. His legislation will let tenants move in their spouse and domestic partners and it will deal with another dozen or so similar aberrations. The legislation is slated to go before the Supervisors' Land Use Committee sometime in late March or early April.

Its main components include:

Clarify Rent Control Coverage For Illegal Units

The Rent Board already considers that illegal units are covered by rent control. The Gonzalez legislation merely codifies this so it's clear.

Prohibit Unilateral Landlord Removal of Common Areas

Under Rent Board regulations, landlords can not unilaterally take away a tenant's "housing services" or change the tenant's rental agreement except for some services. And these are big exceptions, such as parking spaces, laundry, storage, decks and gardens—things most tenants would see as being an important piece of their tenancy. In fact, landlords recognize that and they often take away these services to force the tenant to move. It's especially easy since the Rent Board says landlords do not need a just cause in order to evict tenants from these spaces. A recent court ruling, which the Rent Board won't follow, says that landlords do indeed need a just cause in order to take away these services. The Gonzalez legislation will end this injustice and force the Rent Board to follow the court decision.

Continued on Page 7



Eviction of Grace Wells Moves To Court—Greedy Landlord Won't Stop

Over two years ago, Reno, Nevada, landlord June Croucher bought Grace Wells's 3 unit building in the Lower Haight. Immediately, Croucher began trying to evict Grace. Grace is 86 years old, lives on Social Security, and is disabled from severe arthritis. With nowhere to go, Grace didn't move as Croucher threatened eviction and turned off utilities. Finally, Croucher filed an Ellis Act eviction against Grace. That case heads to court in March.

Grace has lived in her home for over 14 years and has survived the gentrification in the Lower Haight after surviving the massive displacement in the Western Addition by "urban renewal." She is strongly fighting her Ellis eviction and has rallied the support of her neighbors, local community groups and churches. Nonetheless, Croucher is intent on evicting Grace. Croucher wants to turn the 3 unit apartment building into a mansion she can sell at a huge profit. Needless to say, she doesn't care if Grace is in her way of making money for herself and her fiancée, a Zephyr Real Estate realtor.

TIC Law Tossed Out With Bizarre Ruling By Judge

Superior Court Judge James Robertson's rulings are often reversed on appeal, but his latest one is ludicrous for even him.

Robertson-long the target of tenants for his pro-landlord views-was searching for a way to throw out the McGoldrick legislation which included TIC-type condos in the city's condominium conversion. Faced with the fact that the California Department of Real Estate considers TICs to be condominiums, he was finding it difficult to come up with a reason as to why the McGoldrick legislation could be thrown out. Clearly he was searching for some rationale which would pass the "laugh test." Ultimately he wasn't able to do even that!

Robertson threw out the law based on the fact the regulating TICs as condos violated landlords' right to privacy!! His logic: that a landlord who bought a TIC unit in violation of the law would not be able to have an "exclusive right of occupancy" to that unit (meaning other owners of the building could not be considered trespassers if they came into that unit). Incredibly, it gets worse: Robertson further held that the right to buy a TIC was a fundamental right guaranteed by the constitution!!

It's humorous but sad for the thousands of evictions Robertson will cause. The case is being appealed but meanwhile TIC conversions will again be unregulated, meaning there's no limit and the tenant rights under the condo conversion law (such as right to buy the unit, ban on senior evictions, relocation benefits etc.) will not apply to these TICs (just as George Washington, Thomas Jefferson et al intended...)

A Difficult Pill To Swallow

The Long and Hard Road To A Capital Improvement Compromise

Capital improvement rent increases outrageous, unfair, and a scam. The very concept is wrong: that landlords get to improve the value of their buildings by making tenants pay for the full cost, without tenants getting a single penny in equity even when paying multi-million dollar capital improvements. From there, though, it just gets worse: after making the tenants pay, landlords then make the taxpayers pay for the improvements again, through a capital improvement tax write-off. Taxpayers even pay for the landlord's cost of preparing the capital improvement petition. Landlords don't pay a dime and then acquire increased equity in their property.

Then the landlord-biased Rent Board makes it worse: even though the law says the landlord must provide receipts for the work done, this requirement is ignored. Tenants at Lombard Place recently paid over \$500,000 for work which the landlord provided no receipts to indicate that the work had been done at all or done where the tenants live (some years back the Rent Board did the same and it was discovered later that tenants had paid for work at the landlord's home!). And few questions are raised at the hearings: in the same Lombard case-where there were no receipts-the landlord's application to the Department of Building Inspection for permits indicated that the work cost less than \$100,000; nonetheless, he was able to charge the tenants over \$500,000.

And it's worse than just being a theoretical rip-off of tenants and taxpayers. These rent increases hurt people, they are so huge. They result in evictions and displacement of people from their long-time homes. They contribute to homelessness. In fact, an underlying reason why landlords do capital improvements is to get rid of longtime tenants with affordable rents. The capital improvement process is designed to transform a building and its tenants to a higher revenue building with tenants paying higher rents-not just because of the capital improvement rent increases but through the process of driving out lower rent paying tenants (seniors typically) and replacing them in the newly-gentrified building with tenants paying much higher rents.

That all said, the Ammiano compromise on capital improvement rent increases-a compromise which retains the grossly unfair capital improvement system-is good for tenants. At least it's better because it mitigates the impact on tenants, cutting most rent increases in half. And the reality is that with the current state of the courts, where Republican judges ignore the law to push their warped ideology, such mitigation is all we'll be able to get in the near future.

When voters overwhelmingly passed Proposition H in 2000 and abolished these capital improvement rent increases, the legality of doing that was unquestionable. In fact, Prop H did not even go as far as what the law (in an unbiased world) would have allowed. Previous rent control cases (going all the way up to the US Supreme Court) do not give landlords any inherent right to capital improvement rent increases. And in a city like San Francisco, where rents can be raised by any amount when the apartment becomes vacant, the legal consensus is that capital improvements could be abolished and erased in their entirety, even without doing what Prop H did, which was to abolish capital improvements but allow landlords to get these rent increases if they could show they were not getting a "fair return" on their investment.

When H was passed, landlords sued, knowing the conservative judges were apt to shed tears over the loss of such a wonderful money-making scam. And Superior Court Judge James Robertson (who never saw an eviction he didn't like and also recently ruled that people have a constitutional right (akin to the right to privacy and free speech) to buy a TIC! Robertson, of course, tossed Prop H out.

Robertson's decision was appealed by the City Attorney but as bad as Robertson is, the judges on the Appeals Courts are just as bad and sometimes worse. In fact, one of the more "liberal" panels of the Court of Appeals had just reinstated the landlord's lawsuit against the 1998 Proposition G, which limited OMI evictions (particularly bad was that in reinstating the landlord lawsuit the appeals court went out of its way to elaborate and scathingly criticize Prop G). Further, the

word was that these higher level judges were not willing to tolerate any more San Francisco's efforts to tighten up its rent control law).

Had Prop H survived the Superior Court level challenge, then it would have had a somewhat better chance of surviving the appeals courts. More importantly, had it survived Superior Court then Prop H and the abolition of capital improvements would have been the law during all the years it takes for an appeal to meander through the system (note that Prop G, passed in 1998 and upheld by Superior Court is just making its way to the Court of Appeals for an actual decision on it, maybe this year; then it will go to the California Supreme Court after that).

When in late 2001 Sup. Ammiano proposed setting up negotiations between tenants and landlords over developing some type of compromise on capital improvements it was clear that the future of Prop H in the courts was dubious. In fact, the best case scenario was that sometime in the next 5 years the Court of Appeals would overturn Robertson's decision-but during those 5 years capital improvements would have continued unabated. And it would be very unlikely that the courts would actually order landlords to return these capital improvement rent increases which tenants had been paying all those years. The more likely scenario was that the Court of Appeals would uphold Robertson and in 2005 or so we'd all still be paying full capital improvement rent increases.

Assessing the future of the Prop H appeal was important in determining the best strategy for capital improvements because as long as Prop H was being appealed the voter approved initiative was still technically "alive" and the Board of Supervisors was precluded from making any changes to the capital improvement law (since the Board can not change voter approved initiatives). If negotiations proved successful, then it would mean that the City Attorney would have to drop the appeal of Prop H so that the Supervisors could pass legislation addressing capital improvements.

Certainly there were arguments for just letting the Prop H appeal take its course. Eventually, Prop H might be upheld as the strongest argument. Also, not bowing and letting the courts interfere with the legislation process was another argument. But at the same time, there were dozens of pent-up capital improvement petitions headed for the Rent Board. By the time the Court of Appeals decision was ever reached, there would be thousands and thousands of more rent increases.

Also considered was the general political climate at City Hall. While District Elections had brought in a brand new Board much more progressive than the previous Board, any pro-tenant legislation still needed 8 votes to over-ride a veto by Mayor Brown and there were just 6 or 7 solid votes.

With all those factors in mind, in late 2001 tenant groups set up a number of meetings with tenants who had been active in the campaign for Prop H. (In fact, Prop H was truly a grass roots measure in that tenants facing capital improvements had drafted an earlier version of Prop H and initiated the steps which resulted in Prop H being on the ballot). Tenants discussed and debated the pros and cons of some sort of compromise measure and set some parameters as to what a compromise should entail. Most notably, tenants wanted any compromise measure to include some type of absolute cap on how much a tenant's rent could increase due to a capital improvement (pre Prop H law limited rent increases to 10-15% a year, but they could be sequential so many tenants ended up getting rent hikes of 50% or more). And tenants wanted some sharing between tenants and landlords of the costs of capital improvements (e.g., splitting the costs rather than tenants paying 100%). A number of other issues were raised as well, but these two issues became the parameters of any negotiation.

All in all, the negotiations went well. Landlords understood that the capital improvement issue was not going away and that via another ballot measure or

2003 Handbook Update

Since the 7th Edition of the Tenants Union Handbook was published in 2000, there have been a number of changes in landlord-tenant law. The Tenants Union is working on a fully revised 8th Edition Handbook, which we hope to have printed by September, 2003. This interim Handbook Update is a summary of the most important changes since 2000. These topics will be covered in more detail in the 8th Edition.

This Update follows the format of the 7th Edition, i.e., changes will be listed in the same order as the chapters. If a chapter is not listed, it means there are no significant changes included in this update. Additional updates and pending changes in the laws can always be found at the Tenants Union web site, <http://www.sftu.org>.

Researching Laws and Landlords (Page 17)

Since 2000, the internet has become an excellent way to find and research laws. Here are some basic links:

San Francisco City Laws : <http://www.amlegal.com/sanfran/viewcode.htm>

Includes laws such as Rent Control, Housing Code, Condo Conversion Laws, Planning Code

California State Laws <http://www.leginfo.ca.gov/calaw.html>

Includes laws such as Security Deposits, Ellis Act, Costa-Hawkins, Landlord Entry

General Laws and Court Cases: <http://findlaw.com>

You can search for particular laws and court cases

These and other links can be found at <http://www.sftu.org/links.html>

Using The Rent Control Law (Page 37)

There are a number of significant changes in rent control laws. These will be addressed in order of chapter subheadings. Most significant are the changes for capital improvement rent increases.

Rent Control Coverage

Principal Place of Residency Now Required For Rent Control

Rent Board Regulations 1.21 and 5.10 now limits rent control coverage to those tenancies where the unit is the tenant's principal place of residency. This is generally defined: "(Principal Place) does not require that the individual be physically present in the unit at all times or continuously but it must be his or her usual place of return." The regulation also spells out criteria and evidence to be looked at, including the bills being in the tenant's name, the address listed on the tenant's drivers license (or voter registration or similar documents), the unit has the tenant's personal belongings there, and the utilities are billed to the tenant at that address and paid by the tenant. The regulation also requires that the tenant not own any property (in or out of San Francisco) where they have a homeowner's tax exemption. Tenants owning property with a homeowner exemption are almost certain to lose rent control. The law does spell out exceptions, such as absence for family emergencies, travel necessitated by employment or education, hospitalization, military service, vacations and other "reasonable temporary periods of absence."

Prior to removing rent control from a tenant, a landlord *must* petition the Rent Board and a hearing must be held where the tenant can argue their case.

This regulation was adopted to be retroactive, i.e., it covers all current tenancies, not just new tenancies, and landlords can petition for the rent control removal/rent increase based on a tenant's past actions. The Rent Board Commission seems to be limiting the retroactivity to "behavior" after adoption of the regulation on June 5, 2001.

Note that when there are multiple "original" tenants (tenants having the right to the rent controlled rent even if others moved out) in an apartment, the finding that the unit is not one tenant's principal place of residency will *not* result in a rent increase, since the rent cannot be raised on those other "original" tenants.

Exemption From Rent Control For Condominiums Limited

Condominiums are exempt from rent control (but not just cause eviction protections) for tenancies which began on or after 1/1/96 under the state Costa Hawkins Act only when the condominium unit is no longer owned by the subdivider (i.e., the landlord which did the condo conversion). Thus, if a building is subdivided into condominiums and the landlord does not sell the units but continues to rent them, full rent control protection remains. However, if the landlord converts and then sells the units, rent control is eliminated.

Rent Increases

Annual Rent Increases

The annual increases for:

March 1, 2001-February 28, 2002 2.8%

March 1, 2002-February 28, 2003 2.7%

March 1, 2003-February 29, 2004 0.8%

Annual Rent Board Fee

The Rent Board Fee was increased again in 2002 to \$27. Landlords can not pass on the full amount, though. The amount which landlords can pass on to tenants for the period November 2002-November 2003 is \$21.50.

Capital Improvement Rent Increases

The capital improvement law has been rewritten and the new law is effective for capital improvement pass-through petitions filed on or after November 14, 2002. Petitions filed prior to November 14 will be covered under the old law (which the 7th Edition handbook covers).

The new law provides for different procedures and pass-throughs based on the size of the apartment building. Specifically, there is one section for buildings with 5 or fewer units and another for buildings with 6 or more units. There are also a number of changes which apply to all buildings.

Capital Improvements In Buildings With 5 or Fewer Units [Administrative Code Chapter 37.7(c)(4)]

Landlords can continue to pass through to the tenant's 100% of the costs of capital improvements, however, the amount by which a tenant's rent can be raised is lowered to 5% per year (previously it was 10% per year). In addition, the current 7 and 10 year amortization schedules are changed to 10, 15 or 20 year schedules (thus lowering the yearly cost to the tenant). These new amortization schedules generally make what was previously a 7 year amortization now a 10 year amortization and what was previously a 10 year amortization now 15 years. Major work, such as foundations, was changed from 10 years to 20 years. The amortization schedules for specific items are listed in Rent Ordinance Section 37.7(c)(4)(A)(i), (ii), and (iii).

Capital Improvements in Buildings With 6 or More Units [Administrative Code Chapter 37.7(c)(5)]

Landlords can only pass through 50% of the capital improvement costs to tenants in these buildings, except at the tenant's option, 100% can be passed through on the condition that a tenant's rent will never increase more than 15% due to capital improvements, for the lifetime of the tenancy. Amortization schedules for 6+ unit buildings are unchanged from previous law.

The tenant's choice between getting the 50% pass-through or the 15% rent increase cap is made individually (e.g., in a 10 unit building, 2 tenants might choose the 50% pass-through and 8 tenants the 15% cap). Tenants have 15 days after the decision by the Administrative Law Judge to notify the Rent Board of their choice on a Rent Board supplied form. If a tenant were to take no action, then the 50% pass-through would be given by default.

If a tenant chooses the 50% pass-through option, that tenant's rent can be increased by 10% per year until the rent reaches a level where the capital improvement will be paid off during the amortization schedule (this is the same way that capital improvement rent increases have always been calculated). If a tenant chooses the 15% rent increase cap, then the tenant will get rent increases of 5% in year 1, 5% more in year 2, and 5% more in year 3. The tenant will then receive no further rent increases and will pay the 15% higher amount until the capital improvement is paid off (this would mean, for example, that a capital improvement amortized over 10 years-and thus paid off over 10 years-might take 20 years to pay. The 15% is not a part of base rent and like all capital improvement rent increases the rent is reduced when the capital improvement is paid off.

Which of the 2 choices is better for individual tenants will depend on a number of factors. Generally, tenants who get large capital improvements will look to the 15% cap while tenants with moderate and small capital improvements will benefit by the 50% pass-through. One basic rule is whether or not a 50% pass-through would result in an increase greater than 15% (e.g., if the capital improvement will result in 10% rent increases three years in a row then the 15% cap is likely the best choice). Other factors include how long the tenant intends to reside in the unit and what their base rent is. The Rent Board will prepare on line material to help tenants decide and the Tenants Union can help tenants decide. Tenants will have 15 days after the decision to decide which option is best.

Capital Improvements Filed Prior To November 14, 2002

Landlords who filed for capital improvement rent increases prior to November 14, 2002 are allowed to pass-through 100% of the cost of the capital improvements at 7 or 10 year amortization periods. Rent increases for these capital improvements can not exceed ten percent of the base rent (at time of filing) in any one year. Tenants can receive sequential 10% rent increases for a period of year until their rent has increased to the amount needed to pay off the capital improvement within the amortization period.

Capital Improvement Rent Increases For Certain Energy Conservation Measures

Generally, energy conservation measures are capital improvements and would be subject to the provisions above, depending on date of filing. Certain energy conservation measure which are filed after November 14, 2002 and which directly benefit the tenant (i.e., the tenant is paying the utilities) can be passed through at 100%, subject to the 10%. As of 2003, the only allowable such increases are for the replacement of refrigerators which are at least 5 years old with EPA Energy Star compliant refrigerators where the tenant is paying separately for electricity. Such refrigerators would be amortized over 10 years.

The rent ordinance also provides that the city's Commission on the Environment can recommend to the Board of Supervisors that similar items be added to this list.

Capital Improvement Rent Increases For Seismic Work and Newly Enacted Code Requirements

Petitions filed after November 14, 2002 for seismic work "required by law" or capital improvement work required by federal, state or local laws enacted after November 14, 2002, can be passed through at 100% subject to the 10% annual rent increase limit but will be amortized over a 20 year period. Seismic petitions or filed prior to November 14, 2002 will also be passed through at 100% subject to the 10% annual rent increase limit but will be amortized over 10 years. (Codes enacted prior to November 14, 2002 would also be passed through at 100% subject to the 10% rent cap but at 7 or 10 year amortizations, depending on the work required).

Deferred Maintenance Strengthened

For petitions filed on or after November 14, 2002: If the work was done to correct a code violation for which a notice of violation had gone unabated for at least 90 days. This would be regardless of whether or not the violation was caused by the current or previous landlord(s)

Receipts or Competitive Bids

For petitions filed after February 21, 2003 which are \$25,000 or greater, landlords must provide with the application either (1) copies of competitive bids for work and materials or (2) provide receipts for time and materials billing for all contractors and subcontractors or (3) pay for the cost of an estimator (at the time of the job).

Security Deposits (Page 61)

Move-Out Inspections

California Civil Code 1950.5(f) now requires that landlords do a pre move-out inspection with tenants. Either the tenant or landlord may request an inspection in the last two weeks of the tenancy. Tenants must be given the opportunity to correct any deficiencies found by the landlord, and the landlord's ability to deduct for items not identified are limited to items which were unobservable during the inspection (e.g., a torn rug under a couch).

Cleaning Standard Clarified

For tenancies which begin January 1, 2003 or later, deductions for the cleaning of the premises (1950.5(a)(3) are allowed only "to return the unit to the same level of cleanliness it was in at the inception of the tenancy." This has generally been the standard which courts adhere to.

Bad Faith Retention Penalty Increased

The penalty for "bad faith retention" of the security deposit has been increased from \$600 to two times the amount of the security deposit. This can be awarded without tenants asking for it, but in a lawsuit for return of a security deposit this penalty should be requested.

Interest on Security Deposits

Effective August 4, 2002, the interest paid on security deposits has been changed from the flat 5% rate to an indexed rate which will change each year and be the interest rate for a March-February annual period.

The interest rate for interest owed from August 4, 2002-February 28, 2003 is 3.4%. The interest rate for March 1, 2003-February 28, 2004 is 1.2%.

Please note, this is NOT retroactive and interest owed for any period prior to August 4 will continue to be calculated at the 5% rate. (For example, a tenant who moved in January 1, 2000 and vacated on August 31, 2002 would be owed 5% for 2000, 5% for 2001, 5% for Jan 1-August 3, 2002 and 3.4% for the period August 4-31, 2002.

The index which the interest rate is tied to is the 12 month (calendar year) average of the Federal Reserve Bank "Discount Window." The average will be calculated by the Rent Board at the end of the year and then announced to be the effective interest rate as of March of the following year. (Thus in December or January, the Rent Board will announce a new rate to be effective beginning March 1, 2003-February 28, 2004.)

Repairs (Page 67)

Mold

The Toxic Mold Protection Act of 2001 (Chapter 584) requires that landlords who know-or should know-of the presence of mold to disclose that fact to prospective renters. The law also sets up a task force to develop additional legislation on mold and requires the state Department of Health to develop educational materials about mold.

Harassment (Page 83)

Privacy and Landlord Entry

Civil Code 1954, which regulates landlord entry, now requires that the 24 hour notice given to tenants prior to entry be in writing. There are exceptions for emergencies and for when the building is being shown to buyers and the landlord has given tenants prior notice that the building is for sale.

Evictions (Page 93)

No-Fault Eviction Notices Now 60 Days In Most Cases

Eviction notices which previously were 30 day notices must now be 60 day notices, except for tenancies which are under one year. This requirement applies to notices such as landlord move in or other "no-fault" causes. Ellis evictions will continue to be 120 day notices (and one year notices for tenants who are age 62 or older or disabled) and evictions for causes such as nonpayment of rent, or other causes which can be "cured" will continue to be three day notices.

Eviction Threats

In August of 2002, the eviction protections in the rent control ordinance (Administrative Code Chapter 37.9) were strengthened, specifically to deal with landlords using eviction warnings, threats and bluffs. Most typically, landlords were telling tenants that an Ellis eviction or eviction for a relative was forthcoming in upcoming months. (For example, a common type of letter would say "I'm writing to inform you that my brother will be moving into your apartment sometime this Summer..."). Taking such "warnings" as eviction notices (which is what landlords wanted), tenants would often move out. Too often the relative never moved in but the displaced tenants found that, under the law, they had left "voluntarily." To further bury the tenants, landlords would often state in the advisory "this is not an eviction notice" and would get tenants to sign waivers of their rights under OMI or Ellis.

The 2002 amendments deal with these threats in a number of ways:

- Such warnings, threats, advisories etc. are illegal unless the landlord follows up with an actual eviction notice within 5 days.
- If a tenant moves within 180 days following the receipt of such a warning, it is presumed that the tenant was evicted under the grounds referred to in the letter or conversation.
- Also, if a tenant moves within 180 days, the units is subject to the eviction and re-rental restriction under the eviction cause referred to. For example, if the landlords advises of an upcoming owner move in eviction, then the landlord must live in the apartment for three years and, if they move out, must offer it back to the tenant at the same rent and, in any case, can only rent it for the same rent the displaced tenant was paying.
- Agreements in which a tenant waives their rights to return to the apartment or waives their rights to sue if the landlord does not move in (for example) can only be enforced when the tenant is represented by an attorney and the settlement is approved by a judge or a retired judge sitting as an arbitrator.

Tenants who get such eviction threats or warnings should document the conversation and/or retain the letter. Filing a wrongful eviction petition at the Rent Board is a good way to get the eviction threat on record so that the re-rental restrictions can be enforced.

Owner Move In Evictions

New Procedural Requirements

The legislation dealing with eviction threats also made two specific changes to OMI evictions (besides those listed above, which affect all evictions but are particularly aimed at OMI and Ellis evictions).

- Landlords must now file a "proof of service" (attesting that they gave the OMI eviction notice to the tenant) at the Rent Board.
- OMI evictions are now recorded on the deed of the property by the Rent Board. This assures that if a landlord sells a building following an OMI eviction the new landlord will be subject to the re-rental restrictions (i.e., that the unit must be offered back to the evicted tenant and, in any case, can only be rented at the same rent the evicted or displaced tenant was paying).

Requirement That Other Vacant Units Be Offered At Similar Rent Struck Down

In February, 2003, the California Court of Appeals in the *Bullard* decision struck down a provision in requiring landlords doing OMI evictions to offer the tenant any other vacant units owned by the landlord at essentially the same rent the tenant being evicted was paying. Landlords still must offer tenants any vacant units but it can be at any rent. The provision that the owner must withdraw the eviction if there are "comparable" units empty in the same building remains in effect.

Challenge To Proposition G Still Pending

The landlord lawsuit against the 1998 Proposition G, which banned OMI evictions of seniors, limited OMI evictions to one per building and provided a number of other tenant protections, is still going through the courts. As of February, 2003, Proposition G remains in effect (except for the provision struck down under *Bullard*, above).

Changes In Use (Page 125)

TIC Law

City Law Regulating TICs As Condos Struck Down

Regulations of "tenancies in common" (TIC) condominium-type conversions remains in flux, with the Supervisors passing legislation in 2001 including said TICs in the city's condo conversion law and the courts striking down this legislation in late 2002. The ruling (in Superior Court in San Francisco) is being appealed and at some point the law could be reinstated. That is not likely to happen, though, in 2003.

The law which was struck down would have treated TIC conversions in 3+ unit buildings the same as any other type of condominium conversion. This means that there would be an annual limit to such conversions, tenants would get rights to buy their own units, evictions would be prohibited for some tenants and other tenants would have gotten extended leases or relocation benefits. Without this law, there are no limits to the number of TIC conversions which can happen and tenants living in buildings being converted have no extra rights to buy or rights to eviction protections.

State Regulates TICs of 5+ Units

The California Department of Real Estate regulates TIC conversions as condominiums, but the state's jurisdiction is limited to "subdivisions" (a condo conversion is a subdivision) with 5 or more parcels. This the state only regulates TIC conversions in buildings with 5 or more units.

In order to convert a 5+ unit building to TICs, the landlord must apply to the Department of Real Estate for approval and go through the state's subdivision process. State law does not have any limits on such conversions and no particular tenants' rights, but, the approval process is stringent and the landlord is not necessarily going to win approval. Because the process is lengthy and difficult, many landlords choose to ignore it. Violations can be reported to the California Department of Real Estate. Forms can be obtained on the internet at <http://www.dre.cahwnet.gov/cnsmform.htm>.

Buildings For Sale

The 2002 Eviction Threats ordinance requires sellers of buildings to give written notice to buyers of the reasons for the termination of the tenancies for each unit being "delivered vacant." This puts the buyer on notice of any re-rental restrictions or possible unjust evictions. Tenants in buildings being sold should notify potential buyers of this requirement if there are any vacant units in the building. Or, if you have moved and your building is for sale, make sure the landlord/seller meets this requirement. If a landlord does not disclose this information, tenants (or potential buyers) can contact the District Attorney (see Resources in the 7th Edition Handbook).

Mergers And Demolitions

Planning Commission Now Hears All Mergers

Effective December 2000, the Planning Commission holds mandatory "Discretionary Review" of all building permits regarding the demolition and merger of rental units. Tenants who face eviction due to such demolitions or mergers will now be better able to contest the issuance of such permits. (Note: most mergers technically entail demolition of one or more units).

Mergers occur when a landlord combines two or more units into one larger unit. They often occur when a landlord-owner combines the units for personal use. Besides creating a larger, more desirable apartment, the landlord can sometimes evict a longtime tenant. A growing trend in San Francisco mergers is the conversion of entire apartment buildings into large single family homes.

Mergers can be done legally by obtaining approval from the City Planning Commission and Department of Building Inspection or can be done illegally without permits and official sanction. Either way, a tenant should, and can, fight a merger.

To merge units, a landlord must first have a just cause to evict, assuming the unit is under rent control and then, in most cases, must obtain permits from the Planning Department for the necessary construction.

To effect a merger, landlords may try to evict tenants in two units for the purposes of an "owner move in". If the landlord is already living in the building, he or she may try to evict tenants in another unit. Generally, an OMI eviction will not be allowed for such a merger unless the landlord obtains permits to physically merge the two units, as opposed to claiming they simply want to use two separate units. On other occasions, landlords may seek to evict tenants under SF Rent Ordinance section 37.(a)(10) for removal of a single unit from "all housing use." Most mergers, however, seek to maintain the tenant's unit as a housing use, (e.g., as part of a larger apartment) and the eviction can be fought this way. Tenants should request a Block Book Notation from the Planning Department if they think the landlord might be requesting any permits that could affect them. It costs \$26 per year. This will give advance warning to tenants. If the landlord applies for a permit, the Planning Commission holds a mandatory discretionary review.

The Planning Commission will review the merger application based on

- Consistency with Planning Code Section 101.1 (General Plan Priorities)
- Objective and Policies of the Residence Element Plan
- Discretionary Review Criteria:
 - Whether removal of unit will be detrimental to the supply of housing and whether or not any hardships imposed by displacement of tenants will be mitigated (e.g., relocation benefits)
 - Whether removal of the unit will bring the building closer to the prevailing dwelling unit density in the neighborhood.
 - Whether removal of unit will correct design or functional deficiencies. –Whether removal is necessary to preserve landmark status
 - Whether the units are intended for owner-occupancy The main argument tenants have is that the merger will remove affordable housing from the rental housing stock. To win at the Planning Commission, it helps to organize, and politicize the case. If you lose there you can appeal to the Board of Appeals, but currently its members are very pro-landlord and pro-developer.

Besides fighting the eviction cause itself, tenants also can contest the permits which the landlord will need to obtain, usually prior to starting the eviction process.

State Law Requires Notice To Tenants

Effective January 1, 2003, California Civil Code 1940.6 requires landlords to give written notice to tenants prior to applying for a permit to demolish prior to applying for the demolition permit. The notice must state the earliest possible date the demolition could occur. Such notice will make it easier for tenants to fight demolitions (see criteria above) at the Planning Department and Department of Building Inspection (since many tenants don't find out about the plans until it's too late). The law also requires landlords to give such notice to new tenants prior to entering into a rental agreement with them.

Violation of this new law can mean a civil penalty to the plaintiff (tenant) for \$2,500 plus actual damages and attorneys fees.

Roommates (Page 135)

Master Tenant Rent Limitations

As of August 21, 2001, a new Rent Board Rules amendment, 6.15C(3) requires that a master tenant not charge subtenant(s) any more than the subtenant(s) proportional share of the total current rent paid to the landlord by the Master Tenant. Adjustments can be made based on the amenities of rooms (e.g., view, storage space, etc.)

Capital Improvement Compromise Difficult To Swallow

Continued From Page 2

Supervisor action there would be changes in capital improvements. For them, negotiations enabled them to mitigate the damage. For tenants, the advantage was relatively quick action and the ability to get legislation which would not be challenged and hung up in the Republican, landlord-friendly, courts. The concept of a cap (15%) was agreed on as was the concept of sharing (50/50). Landlords, though, sought to weaken the protections for tenants in smaller buildings. With Rent Board data showing few capital improvements in these buildings (and those being relatively small; capital improvements tend to be the tool of the very large building landlords) tenants agreed to concessions here in order to get real change in the larger buildings. Thus the eventual agreement entailed a different approach for these smaller buildings (cutting the annual rent increase allowed from 10% to 5% and extending the "amortization periods" which effectively cut the rent increases even further.

But, the nagging issue became trying to do something about those capital improvements which had been approved back in 2000 and 2001—capital improvements which would have been stopped by Prop H. In particular were a couple of buildings where the tenants who were behind Prop H lived—tenants who worked the most for Prop H, were impacted the most by Prop H and would not be impacted by the Ammiano settlement.

The difficulty was the landlords of these buildings Angelo Sangiacomo (AKA the "father of Rent Control" because of his pre-rent-control huge rent increases) and Herbert Jaffe were difficult landlords. A number of strategies were tried: first, Sup. Aaron Peskin introduced legislation which would have dealt separately and retroactively with the largest of these Prop H era capital improvements. Seeing that (and afraid the Ammiano deal might be killed) the landlord organizations offered to be intermediaries in negotiations with Sangiacomo and Jaffe. Sangiacomo, though refused to cooperate and Jaffe made tenants such a minimal deal that the tenants rejected it.

Then, the Prop H appeal was tried as leverage. Prior to heading to its next court date, the H appeal was slated for a court ordered mediation session to see if there could be some settlement on the Prop H case. The City Attorney set the capital improvements at these Prop H buildings as the condition. But the 2 landlords refused to negotiate and refused to participate in the settlement discussion if that issue was on the table.

By then, the Ammiano compromise was over a year old (it was on hold while attempts to settle these older cases continued). No progress had been made to settle or mitigate those Prop H era capital improvements and in the meantime there had been well over a thousand new capital improvements with some big ones

in the pipeline. These new capital improvements were not going to be covered by the Ammiano legislation and unless Ammiano's compromise passed soon, the ones in the pipeline would be missed as well. The Peskin legislation was still pending but the City Attorney was convinced that the retroactivity of it (plus its being targeted at certain buildings) made it certain that it would be thrown out in court. Thus the decision was finally made: drop the Prop H appeal and give up on the Peskin legislation and let the Ammiano legislation move forward. If the older capital improvements could not be mitigated, at least the upcoming ones would be.

All in all, was the capital improvement deal worth it? Barely. Very barely. Legislation which would have gotten enough votes to override a Mayor Brown veto probably would have been a little better, but not much. Another ballot measure would have been difficult too. In retrospect, the big fault was that retroactivity should have been a core condition for the negotiations. Certainly, the compromise is not so great that it should preclude any further reforms of the capital improvement injustices—what it is just pure mitigation: softening of too large and unjust rent increases. And perhaps one of the worst things about the whole process was that it gave politicians a false impression that the vast differences between tenants and landlords could be dealt with just by getting the two sides to talk nicely to each other (when in fact it stems from basic issues of economic justice, class, wealth and power).

For now, at least, capital improvements have been lessened. For the future, something still needs to be done about a Rent Board which allows capital improvements even when landlords have no receipts for the work or capital improvements clearly designed to facilitate a building's conversion to "corporate suites." And, for the future, there's still a lot of talk among tenants about rents and a lot of talk about ballot measures to roll back rents, freeze rents or set caps on rent increases. Maybe one of those proposals will be the next stage in dealing with capital improvements.

Cleanup of Rent Control At Board

Continued From Page 1

End "Musical Rooms" For SRO Hotel Tenants

When the rent control law was written, it sought to exclude tourist hotels (e.g., the Hyatt) for obvious reasons. Unfortunately, the language also excluded tenants in SRO residential hotels. The method used to exclude tourist hotels was to say rent control wasn't applicable until the person had lived there 32 days. Thus the residential hotel owners began the process of "musical rooms" where tenants are forced to move out for a day or two every month and then allowed to move back in and thus never living there 32 consecutive days. Not only does this mean they can get their rent increased by any amount it also means they can be kicked out for any reason at any time.

San Francisco classifies all its hotel rooms as "residential" or "tourist." The Gonzalez legislation simply uses this classification rather than the 32 days. So when a tenant moves into a residential room, they get rent control from day one, just like every other tenant.

Stop Punitive Use of Banked Rent Increases

Landlords are allowed to save up their annual rent increases ("banking") and can go as far back as 1983. Then, when they want (often after a tenant complains) they can impose them all at once—the amount can be a 60% rent increase! The Gonzalez legislation puts a cap of (no more than 8% can be given a year) on these banked rent increases. This ends the use of banked rent increases as retaliatory and punitive rent increases.

Extend Refunds For Illegal Rent Increases

Currently, a tenant can only recoup the last three years of an illegal rent increase. The Gonzalez legislation extends this to the maximum allowed under state law: 5 years.

Add Relocation Expenses For No-Fault Evictions

Tenants evicted for landlord move in or capital improvements get relocation benefits but these benefits were set some time ago (20 years ago for capital improvements!) and the amounts haven't changed. The Gonzalez legislation updates the relocation amounts to \$2,000 and then indexes the relocation benefits so they

will keep pace with inflation and housing costs. In addition, evictions from demolition (including illegal units) and substantial rehabilitation, will require relocation benefits of \$2,000 (indexed as well).

Prohibit Rent Increases and Evictions For Moving In Spouses, Domestic Partners

San Francisco's discrimination law has long prohibited rent increases or eviction for adding additional occupants, including moving in spouses or domestic partners (so long as the total number of people was allowed under the Housing Code. Unfortunately, state discrimination law has now superseded San Francisco's discrimination law. One result was a recent court decision which upheld the eviction of a newly married couple when the wife sought to have the husband move in with her.

The Gonzalez legislation deals with the conflict with discrimination law by moving this San Francisco's long-time law to the rent control law, where it will be legal.

Clarify That Only Board of Supervisors Can Decide Who Gets Rent Control

In a very dubious move, the Rent Board adopted a regulation requiring that an apartment be a tenant's "principal place of residency" as a condition for rent control. Whatever one thinks of the principal place argument, the Rent Board does not have the authority to make decisions on how does and does not get rent control (the Rent Board can write interpretative regulations but can not create new concepts or law—only the Board of Supervisors can do that). The Board's legal justification was to create a regulation defining a term in the ordinance used once in the ordinance and then only in passing: "tenant in occupancy." The Gonzalez legislation deletes the words "in occupancy" thus rendering the Rent Board regulation null.

**Contact These
Key Supervisors
Say You Want Them To
Support The Gonzalez
Legislation Ending
Rent Control Inequities**

Sophie Maxwell - District 10
(415) 554-5144 - voice
(415) 554-6255 - fax
Sophie.Maxwell@sfgov.org

Fiona Ma - District 4
(415) 554-7460 - voice
(415) 554-5163 - fax
Fiona.Ma@sfgov.org

Tom Ammiano - District 9
(415) 554-7670 - voice
(415) 554-7674 - fax
tom.ammiano@sfgov.org

Bevan Duffy - District 8
(415) 554-6968 - voice
(415) 554-6909 - fax
Bevan.Duffy@sfgov.org

Say You Want Fair Rent Control

**SUPPORT THE
TENANTS UNION!**

I WANT TO JOIN THE SFTU!

NAME: _____
ADDRESS _____ ZIP: _____ DISTRICT: _____
PHONE: (H) _____ (W) _____ E-MAIL: _____
LANDLORD'S NAME: _____ DATE MOVED IN: _____
OF UNITS IN BLDG: _____ # OF BEDROOMS IN UNIT: _____ CURRENT RENT: _____
1 YEAR: \$55 HOUSEHOLD \$40 REGULAR \$75 SUSTAINER \$25 LOW INCOME
2 YEARS: \$100 HOUSEHOLD \$75 REGULAR \$140 SUSTAINER \$45 LOW INCOME

MAIL WITH YOUR CHECK TO: SFTU, 558 CAPP ST., SF, CA, 94110

WE WILL MAIL BACK YOUR HANDBOOK AND THE MEMBER PHONE NUMBER

Some Ideas For The 2003 Convention

Rent Rollback

When the dot-com housing crisis began in 1997 or so, average rents on 2 bedroom apartments were around \$1,200. They peaked at over \$2,500 in 2001 and now have come "down" to about \$2,000. Greedy business people have a longtime history of exploiting crisis and pain for ill-gotten profits. Landlords have especially used crises and housing shortages to line their own pockets. In fact, rent control began in this country in full force during World War II when landlords saw the war as an excellent way to reap huge profits. Landlords seem to have a peculiar mindset-where others see pain, they see profit opportunities.

The shortage of housing during the worst of the housing crisis led landlords to raise rents by extreme amounts, based on the simple premise that people need housing.

While they raked in profits, people suffered. Homelessness increased. Tenants-especially seniors-were being evicted at alarming rates. More fortunate tenants lived in fear of evictions and struggled to pay their outrageous rents. Then when the economy slid downhill, more and more tenants were evicted for non-payment of rent, being stuck with outrageous rents and either no work or less work.

These landlord profits are ill-gotten gains from profiteering off of a crisis. Landlords should be forced to return some of these huge profits. (They should do so willingly to try to demonstrate that they are contributing members of the community, but they probably won't).

A rent rollback initiative would take one of a few possible forms. For example, landlords who rented vacant apartments during the crisis (say between 1997 and 2001) would be forced to reduce the rents to 1996 levels, plus inflation. Since rents are about 50% higher than in 1996, the proposal could be that these rents be reduced by 50% with the landlord having the option (and burden of proof) of rolling the rent back to the 1996 level for that apartment. A simpler proposal would be based on the assumption that all landlords profited extremely from the crisis and roll back all rents in San Francisco by 10%. A stringent version of both would require that landlord pay back their ill-gotten gains from 1997 on; less stringent would be to just re-set the rents and leave it at that.

Rent Freeze

A similar concept is to recognize that rents skyrocketed out of control due to profiteering and now that the housing crisis is over, landlords continue to reap these huge profits while people who actually work for a living are increasingly suffering. The tourist industry is hard hit, the tech sector is devastated, and public service workers are being sacrificed as the federal, state and city confront huge budget problems. Only landlords are flying high with their vastly increased rents and equity values. Yet with landlords doing well and tenants struggling, rents continue to rise.

Thousands of tenants every year are getting hit with their annual rent increases and on top of that the Board of Supervisors has increased the Rent Board Fee charged to tenants, lowered interest rates on security deposits and passed on half of all bond costs to tenants. Not to mention that thousands of tenants are getting hit with "operating and maintenance" rent increases this year (10% rent increases!) and many thousands of more are being hit with capital improvement rent increases (10% more a year and in many cases total rent increases of over 50%!). And this is all while San Francisco's unemployment rate is well over 7% and many thousands more have seen their hours reduced. Then there's seniors who are seeing paltry increases in social security and who's savings are getting near-zero interest rates, thanks to an economic policy which prioritizes bolstering up the stock markets.

Certainly, there's no reason to let these landlords who profiteered off the housing crisis and who are making HUGE profits to continue to raise rents, squeezing every last penny from tenants and workers who are barely getting by. The proposal for a rent freeze would be simple enough: As long as the local unemployment rate is above 5%, then landlords are prohibited from imposing any further rent increases. No annual increases, no capital improvements, no operating & maintenance increases, no "banking", no bond pass-throughs. Nothing. They will have to be happy with what they're getting (which most people would ecstatic over).

No Increases Once Tenant's Rent Equals 33% of Income

It's a truism that people should not pay more than about 33% of their income to their housing costs. Banks

won't give mortgages to buyers if the mortgage exceeds 25% of income. Economists note that in a healthy economy people should not be paying more than 33% of their income to their rents or mortgages. When that amount exceeds 33%, then spending which would be distributed throughout the economy ends up in the hands of a few landlords and a few banks. When spending gets concentrated like that, it does not get distributed through the local economy. Especially since in San Francisco about half of the landlords do not even live in the city (based on review of Tax Collector mailing addresses).

The local economy suffers, of course, but so do tenants who are "shelter poor." Paying around 50% of income to rent is pretty common among San Francisco's tenants with low and moderate incomes. Paying half of income to rent leaves very little money for anything else. Food, transportation, health care, clothing, day care, etc. eat up the other half pretty easily. Thus there's little going to the neighborhood restaurants, move houses, cafes, toy stores, book stores and all the other small businesses in the city. And with these small businesses providing most of the jobs in the city, when their income goes down their workers (who are renters) get laid off or lose hours. It becomes a spiraling downward economy.

Which, in fact, is what we have right now in San Francisco. Nobody's smiling except the real estate investors and landlords. While they smile, the city suffers.

New York City has a law which prohibits any further rent increases for tenants who are seniors or are disabled one their rent has reached 33% of their income. New York recognizes that paying more than a third of your income to rent is an extreme hardship and is bad for the economy in general.

San Francisco could take this one step further: prohibit any further rent increases once any tenant's rent has reached 33% of their income. This would ensure a healthy local economy and still give landlords profits.

Vacancy Rent Control

The high rents on vacant units (which are uncontrollable) continues to be the number one complaint of San Francisco tenants. There are some conflicts with state law over doing a vacancy control measure, but it could be done. First some background on vacancy control.

Back when San Francisco passed rent control in 1979, it was rent control supported by then-Mayor Feinstein and the real estate industry. This was because voters were poised to adopt a strong rent control measure which included vacancy rent control (i.e., limits on how much landlords could raise the rents on vacant apartments). In order to derail that measure, our current form of rent control was adopted. During the 1980s and early 90s, tenants fought hard to get vacancy rent control. In 1991, the Board of Supervisors and then-Mayor Art Agnos actually adopted vacancy control. The landlords placed it on the ballot as a referendum and with a multi-million dollar campaign, they were actually able to get it repealed.

For the next few years tenants focused on tightening up rent control and strengthening the tenants movement. The state, though, derailed a further vacancy control measure in 1995 when the Costa-Hawkins Act was passed. That law repealed existing vacancy control laws and said any vacancy control can only be adopted in very limited circumstances (notably, on units empty following a no-fault eviction and units which have had uncorrected code violations for 60 or more days). And, in fact, we have limited vacancy rent control on units following a landlord-move-in eviction (for 3 years following the eviction) and following Ellis Evictions (for 5 years following the eviction).

While we would not be able to do full scale vacancy control, San Francisco could adopt a vacancy control measure broader than what we have. A vacancy control measure could be adopted which ended the three and five year limits on VC for LMI and Ellis evictions and which brought VC to all other no-fault evictions (most common would be evictions for capital improvements, demolitions, mergers, some condo conversion evictions and maybe substantial rehabilitation evictions).

Also, there is increasing talk in Sacramento of Costa-Hawkins being weakened and even some talk of repeal. A local measure we could pass today could also include a provision tied to changes in Costa Hawkins, so that our vacancy control would expand automatically whenever changes in state law allowed it to.

Excess Rents Tax

Controlling rents on vacant units has been problematic since the state legislature prohibited wholesale vacancy rent control. But, there are always other ways to accomplish the same means. One idea is an "Excess Rents Tax." Under this concept, a graduated tax would be imposed on rental income. Rents at defined affordable levels would not be taxed. Rents above affordable would be increasingly taxed. Thus the higher the rent, the more tax the landlord would pay, up to a 100% tax on any rent over a certain amount. In other words (which removes the motivation to raise the rent over a certain amount).

For example, a 2-bedroom at \$750 might have a zero tax rate; then every \$25 over \$750 would be taxed at a graduated rate, say 10%. At a certain point—\$1,000 in this example—the amount over \$1,000 would be taxed at a 100% rate, thus eliminating all incentive to have the rent over \$1,000 since the amount above \$1,000 simply goes to the city in taxes.

This measure would be very effective in controlling housing costs (it could even be applied to home purchases) and would provide the city with revenues to build more affordable housing, end homelessness, and deal with the current budget crisis.

Tenant Equity

There's a simple, just and effective way to turn tenants into homeowners without displacing tenants. It's based on the concept that "homes belong to those who live in them." And on the fact tenants don't just live in the housing but that we also pay for through our rents.

Tenants' rent should go towards equity in the property which the tenants are paying for and living in. A rent to equity model would mean tenants become owners of land. It can even be done so that, while renting housing for profit is being phased out, landlords will continue to receive a return on their investment and they'll be able to retire gracefully.

Landlords have a sweet deal by buying an investment with relatively little money (just the downpayment) and then having the tenants pay off the mortgage. In the end, for example, a landlord puts \$20,000 down to buy a building. In 20 years, tenants have paid off the mortgage (plus the taxes and upkeep and the landlord's profit) and the landlord has a property worth, say, \$500,000. The tenants, who paid for it, have nothing. The landlord, who paid nothing, has all the equity.

If we're to really look at land reform and move away from the exploitation of renters by just a few landlords, we need to realize that tenants play a role in this equity buildup and that fairness dictates equity sharing. The landlord assumes risk (but puts up money). The tenants may have minimal risk, but put up all the money. This sort of partnership is what profit sharing is all about in American business and it's time we looked at within our housing for profit model.

Now this \$500,000 equity is a very big pie which only one person is eating. It's time to look at ways of sharing that equity. There are a number of models which could be utilized to implement equity sharing ideas, but here's just one:

10% of Rent Applicable To Equity: Very simply, 10% of a tenant's rent is applicable towards equity in the building, payable when the tenant moves. Say 4 tenants move into the building above and each pays \$2,000 (for simplicity sake, assume no rent increases). Tenant #1 lives in the building for seven years; Tenant #2 for 10 year; Tenant #3 for 14 years and Tenant #4 for 21 years. Upon either deciding to buy their unit or moving out, each tenant gets either an equity interest in the property or a cash payout.

Tenant 1 gets \$16,800. Tenant #2, \$24,000. Tenant #3, \$33,600. Tenant #4, \$50,400. This totals \$124,800. Seems like a lot but it's not. Remember that tenants have paid the landlord 10 times that amount over the years and in doing so have paid for the entire building, plus expenses plus the landlord's profit.

Plus, the landlord-who's paid nothing over the years-still retains \$375,200 in equity, assuming (unlikely) that the building has not appreciated.

**For More Info on Tenants Rights,
the 2003 Tenants Convention and
the Tenants Union:**

www.sftu.org