



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: January 13, 2020

IBA Report Number: 20-01

Docket Date: TBD

Item Number: TBD

Analysis of the Impact of AB 1482 and a Review of the Practices of Other Cities

OVERVIEW

In a memo dated September 18, 2019, our Office was asked by Councilmember Ward to conduct an analysis of AB 1482, which established rent caps throughout the State as well as protections for tenants from being evicted from their homes without just cause. In addition, the request asked specifically for an analysis of the role of rent boards within various jurisdictions of the State, as well as other ordinances and polices that other California cities have to resolve landlord/tenant disputes.

BACKGROUND

Prior to the passage of AB 1482, rent control and tenant protections were controlled by the various municipal jurisdictions of the State as well as the Costa Hawkins Rental Housing Act. The Costa Hawkins Act (CHA) prohibited jurisdictions from enacting rent control on any housing that was built after 1995, or from expanding rent control to additional properties that were not covered by a local ordinance at the time of passage (cities, however, are allowed to enact new rent control ordinances if they did not already have one, subject to the limitations of the CHA).

The CHA, however, did not touch upon evictions protections that municipalities, including the City of San Diego, could enact if they wished, including protections known as just cause eviction protections. Just cause eviction protections require that a landlord have a specific reason for evicting a tenant from a rental property. These reasons are normally spelled out within an ordinance, and if the landlord cannot comply with one of the reasons for eviction, then they may not evict the tenant. Since these protections were not prohibited by the CHA, numerous jurisdictions, including San Diego, have subsequently passed these regulations and applied them to additional properties that are not or have not been subject to rent controls in the past.

During the most recent legislative session, the State Legislature passed AB 1482, which now provides both just cause eviction protections as well as rent control throughout the State. This is the first time that rent control and eviction protections will apply to all jurisdictions throughout the State. The law provides exemptions that allow municipalities to enact more stringent provisions than the provisions of AB 1482 in regard to either rent control or eviction protections. For example, the law does not override any rent control ordinances that were in place prior to the enactment of AB 1482. However, it is worth noting that the law does not repeal the CHA, and thus those prohibitions, such as placing stricter rent controls on properties built after 1995, still apply. The other major exemption is that the law does not override just cause eviction protections that were previously enacted by various municipalities, nor does the law prohibit jurisdictions from enacting further eviction protections as long as those provisions are more stringent than AB 1482.

FISCAL AND POLICY DISCUSSION

Just Cause Tenant Protections

As mentioned, in 2004 the City enacted just cause eviction protections, through the Tenant's Right to Know Ordinance (TRKO), in order to provide those protections for tenants within the City prior to the passage of AB 1482. These provisions are fairly similar to those contained within AB 1482, and are also similar to the protections that are enforced in other jurisdictions throughout the State, as displayed in Attachment 1. However, the TRKO and AB 1482 differ in some distinct ways, such as:

- **Term of Applicability:** The TRKO takes effect after the tenant has lived in the space for a period of 24 months, while the AB 1482 protections begin after 12 months if all the occupants have lived in the rental unit during that time, or 24 months if some tenants change but at least one of the occupants has lived in the rental unit during that time.
- **Relocation for no-fault eviction:** AB 1482 requires landlords to provide tenants with relocation assistance (equivalent of one month's rent) if they are being evicted through a no-fault reason (see Attachment 1). This provision is not contained in the TRKO.
- **Opportunity to remedy a planned just cause eviction:** AB 1482 requires landlords to provide tenants the ability to remedy the situation that would precipitate a just cause eviction prior to the notice of eviction. This provision is not contained in the TRKO.
- **Applicability to Residential Properties:** AB 1482 contains numerous exemptions for various properties throughout the State, such as single family homes. However, the TRKO contains fewer exemptions for properties, and thus potentially covers far more rental residences than AB 1482.
- **Expiration:** AB 1482 will expire at the end of ten years, if not renewed by the Legislature. The TRKO remains permanently in effect, unless the City Council elects to amend or terminate it.

Of those jurisdictions that have enacted just cause eviction protections similar to those contained in AB 1482, the specific provisions can vary greatly in their specificity and applicability. For example, all of the local just cause eviction protections include a provision that a landlord may evict a tenant in order to have a relative move into the property. However, some jurisdictions have different definitions of what constitutes a relative, and whether or not special circumstances must apply in order for the family member to move in.

It is worth noting that, during our Office’s research into this subject, we came to the conclusion that the just cause protections within AB 1482 most likely will not apply to rental properties subject to the TRKO. This is due to the fact that the TRKO was adopted prior to September 1, 2019, which, per a provision of the law, makes the local ordinance the controlling law. However, the City is subject to the rent control provisions of AB 1482.

Rent Boards

In addition to enacting ordinances that define the causes for which tenants may be evicted from rental properties, numerous jurisdictions within California also have dedicated housing departments which have programs that are designed to expeditiously and fairly handle landlord/tenant disputes as well as provide information to both landlords and tenants about their rights and the local and state laws applicable to rental housing within that jurisdiction. In some instances, these entities are also overseen by a rent board.

The table below provides the budgetary information for some of the various rent boards, and the staff that support the boards as well as oversee the application of rental protections that are currently operating in the State. These boards vary on the types of entities they oversee, as well as how board members are selected, as displayed in the table below. In some instances, the boards are advisory boards that oversee a centralized department within a given city, normally contained within a housing department that also has other duties related to housing. This is the case for both Los Angeles and San Francisco. In Oakland, there is a main unit overseeing rental protections, but the duties are shared across multiple departments. Finally, in Berkeley and Santa Monica, which are the two boards that are independently elected, the board as well as staff are separate, more independent entities, with additional powers such as the ability to set their own budgets.

Rental Boards/Assistance Programs					
City	FTEs	Expenditures (FY 2020)	Entity Type	Annual Fees Per Unit	Board members
Los Angeles	88.00	\$7,967,538	Centralized Department	\$38.75	Appointed
Oakland	39.84	\$9,209,862	Multi-departmental	\$101.00	Appointed
San Francisco	37.00	\$9,144,677	Centralized Department	\$50.00	Appointed
Berkeley	22.35	\$5,334,943	Semi-Separate Entity	\$250.00	Elected
Santa Monica	24.00	\$5,269,647	Separate Entity	\$198.00	Elected

One aspect that all boards share is that their activities are all funded from annual fees charged for each rental unit within the respective city. As shown in the table, these fees vary widely based on the jurisdiction and the budget for the board. These boards typically keep track of the amount of rental properties in the city they oversee, and require landlords to register their tenancies with the board. The departments working for these boards provide information for both landlords and

tenants on the various provisions that are directly applicable to that specific jurisdiction, including: rental increase caps; steps to serve an eviction notice; and ways to protect oneself from eviction. In this way, these supporting departments provide an array of services beyond just adjudicating landlord/tenant disputes.

Beyond overseeing the various activities of the rental unit enforcement entities for those cities, these boards also act as quasi-judicial bodies that can adjudicate disputes between landlords and tenants, after these disputes have been heard either administratively or in front of a hearing officer. Having a rent board, as well as an administrative hearing process for landlord/tenant disputes, provides for a more expeditious venue where landlord/tenant cases can be disputed and resolved. In the absence of a rent board, such as in the City of San Diego, landlord/tenant disputes must be resolved either between the parties, or in court. There is no enforcement entity within the City that can adjudicate a dispute over tenant issues, especially those that are unique to the City such as the just cause eviction protections, short of the court system which can be intimidating and involves more time and cost.

Some cities alternatively have tenant protection departments that do not operate under a rent board. This includes San Jose, which has a tenant assistance program within the city's housing department to assist tenants in cases of wrongful eviction or rent gouging. Either tenants or landlords may petition the department itself, which then levies an administrative opinion, or will conduct a hearing in front of a hearing officer. This department includes approximately 18 positions with a budget of \$3.2 million, which is also supported by fees levied on a per unit, annual basis.

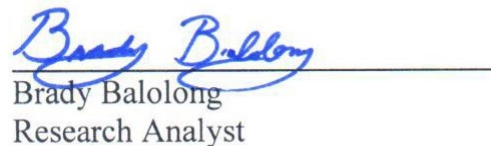
CONCLUSION

The passage of AB 1482 will bring rent control to the City of San Diego for the first time. While the City already has just cause eviction protections that will most likely not be impacted by the passage of AB 1482, the City's protections are not as stringent as the ones contained in the legislation.

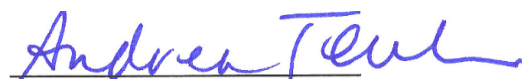
Further, unlike other jurisdictions, the City does not have an entity which enforces the provisions of the TRKO or the new rent control provisions contained in AB 1482. The only recourse for tenants or landlords is to go through the court system. Other large cities in the State currently have designated entities, normally under the jurisdiction of a rent board, which provide assistance to and adjudicate disputes between landlords and tenants within those jurisdictions. These entities are paid for through annual fees levied upon the rental units that they oversee.



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Just-Cause Eviction Provision Comparison									
Provision	San Diego <i>24 months</i>	AB 1482 <i>12-24 months</i>	San Francisco <i>Immediate</i>	Oakland <i>Immediate</i>	Los Angeles <i>Immediate</i>	Berkeley <i>Immediate</i>	Sacramento <i>12 Months</i>	San Jose <i>Immediate</i>	
Nonpayment of Rent	X	X	X	X	X	X	X	X	
Violation of Lease	X	X	X	X	X	X	X	X	
Nuisance	X	X	X	X	X	X	X	X	
Illegal Use	X	X	X	X	X	X	X	X	
Refusal to Renew Lease	X	X	X	X	X	X		X	
Refusal to Provide Access	X	X	X	X	X	X	X	X	
Substantial Damage by Tenant		X		X	X	X		X	
Unapproved Subtenant		X	X		X			X	
Substantial Rehabilitation*	X	X	X	X	X	X	X	X	
Withdrawal from Rental	X	X	X	X	X	X	X	X	
Owner or Relative Occupancy*	X	X	X	X	X	X	X	X	
Local order requiring eviction*		X			X			X	
Requiring Assistance for No-fault		X	X	X	X			X	
Requiring Assistance for Temporary Removal						X			

* No-fault reasons per AB 1482