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The Promise of TOPA: Tenant Opportunity to Purchase Act

By Chris Tipton

In several California cities, including Albany, Berkeley, San Jose, Richmond, and East Palo Alto, the proposed Tenant Opportunity to Purchase Act (TOPA) has sparked intense debate. While its proponents argue that TOPA could be a solution to creating more affordable housing and enhancing renters' pathways to homeownership, many of these cities, including San Jose, Richmond, and Berkeley (on three separate occasions), have voted against pursuing TOPA because it would fall short of its intended goals. After extensive hearings and staff research, it has become increasingly evident that TOPA is a concept that should not be pursued in any form.

TOPA's Promise

TOPA May appear well-intentioned, but when we

delve into its practical application, it becomes clear that this policy has serious flaws and invites unintended consequences. TOPA promises to preserve neighborhoods, provide renters with a path to stable housing through homeownership, and offer non-profits opportunities to provide affordable housing. It fails to deliver on these promises when we examine its real-world outcomes and would provide no additional units of housing. Affordability would remain a challenge for many.

Challenges for Renters

For renters, the prospect of purchasing a property under the government's control may not be as appealing as it seems. In reality, TOPA strips away the financial benefits and flexibility of
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property ownership, such as appreciation and income generation. Renters are left with a host of financial responsibilities and greater financial risks. Furthermore, the imposition of "permanently affordable" deed restrictions could make it nearly impossible for renters to secure loans from banks under such conditions.

Challenges for Property Owners

Property owners also face a range of challenges under TOPA. The legislation introduces burdensome regulations that limit their freedom to sell properties as they see fit. The requirement to offer properties to renters at prices dictated by "city-approved" appraisers and the potential for indefinite delays in sales can be a nightmare for property owners who want to make a timely sale or sell to friends and family at a reduced price. This process would largely eliminate new investment in the communities. TOPA also reduces the opportunity to perform a 1031 tax exchange. This not only stops investment, but reduces transfer tax revenue and property tax revenues that would have otherwise been earned by the cities.

Beneficiaries and Bureaucracy

The primary beneficiaries of TOPA are special interest groups, non-profit housing organizations, and developers who can exploit this legislation for exemptions from permanent affordability regulations, property taxes, or rent control limits. The bureaucratic nature of the ordinance also means increased administrative costs, diverting resources from more effective affordable housing programs like first-time home buyer incentives, down payment assistance, and property tax abatement programs. It's a lose-lose situation for renters. They lose their rent control protections, and their new owners are non-profits with a history of being the top evictors nationwide. In 2023, one non-profit alone had 73 of the 120 evictions filed in Berkeley.

Extensive Problems with TOPA

The list of problems with TOPA is extensive. It gives renters and non-profit organizations the right of first refusal to purchase a property before it can be sold in a free market. The legislation can lead to transaction delays of up to a year or more, and

multiple TOPA developers can take turns causing these extended delays. It significantly devalues properties and harms homeowners' equity. Implementing TOPA wouldn't produce the additional units needed in areas with deficient housing. In fact, it would reduce the housing stock and lead to increased rents, harming low-income renters.

Moreover, it prevents a property from going on the free market for sale until every renter waives their rights in writing, creating unpredictable delays in the sales process. In markets like the East Bay, where the average 1-bedroom condo can cost over \$600K, a single-family home over \$1M, and interest rates over 6%, homeownership remains out of reach for many low to moderate-income renters without significant subsidies.

Lessons from Washington, D.C.

After four decades of experience with TOPA in Washington, D.C., there is a growing consensus that this legislation has not performed well and has accelerated gentrification. The city is defunding TOPA in favor of more effective affordable housing programs, such as rental assistance for low-income renters, down payment assistance to promote homeownership, and shelters to help the homeless. TOPA, with its complex regulations, is siphoning resources away from these more promising programs. Ultimately, it disrupts housing and generational financial stability in working-class, immigrant communities and communities of color who depend on lower-cost affordable homes.

In summary, TOPA is a flawed concept that should not be pursued in any form. It promises to empower renters and promote homeownership, but, in practice, it creates more problems than it solves. The unintended consequences, the potential for government overreach, and the burden it places on property owners and renters make TOPA an idea that should be abandoned. It is time to stop all forms of legislation for TOPA and focus on more effective and practical solutions to address the complex issues of housing. To learn more and receive news and updates about TOPA, please visit:

www.ebrha.com/topa



Programs & Resources



Small Property Owner Representation Services (SPORS)

This program provides small rental property owners and operators with assistance, representation, and mediation if they have a renter-related issue. EBRHA will help you from beginning to end with Oakland Rent Adjustment Program (RAP) petition cases and in Housing, Residential, Rent, and Relocation Board (HRRRB) appeal proceedings.

Vacancy Preparedness Consultations

An in-depth consultation with a Member Specialist is designed to support members who have vacant units and need to get prepared for listings and viewings. Includes move-out checklist (maintenance, repairs, renovations, etc) application review, screening tools and reports, market rent rates, and security deposit guidelines.



TRIO Plus: Housing Teachers Can Afford

EBRHA members can access a new pilot program in collaboration with Trio Plus to help Oakland Unified School District teachers and staff find rental housing! Help Oakland educators obtain rental housing and live in the communities where they teach. Helps you achieve lower vacancy rates. Get access to exclusive listing services.

Renter Resource Directory

The new Renter Resources Directory on the EBRHA website provides renters with quick references and guides to commonly asked questions directed to our member support team. We are committed to fostering positive owner-renter relationships, and renters should feel confident and informed as they navigate the rental landscape.



Market Rate Estimates

This exclusive EBRHA service will remove the guesswork and streamline how to determine multifamily apartments and single-family home rental rates. EBRHA helps provide members with real-time insights for more data-driven decision-making.

Cash Assistance Program

These grants from the County of Alameda are a lifeline for small, low-income housing providers facing foreclosure due to the non-payment of rent during the eviction moratorium. With the potential for up to \$75,000 in cash assistance, the program aims to alleviate the financial stress faced by property owners.



Why Join EBRHA?

EBRHA is an invaluable resource and helps insure that you are a reliable rental property owner. Rental housing laws, requirements, and forms are constantly changing and EBRHA has designed new all-inclusive membership packages.

MEMBER BENEFITS:

- No processing fees
- No per-unit charges (Standard and Advanced)
- No mandatory contributions
- No hassle payments
- Discounted tickets: 2024 Rental Housing Tech Conference
- Over 70 webinar presentations a year from industry pros
- Monthly Networking Mixers
- Local & State Advocacy
- Weekly Housing Industry News & Updates
- Rentrospect Newsletter & Rental Housing Magazine

JOIN & RECIEVE A \$40 CREDIT

Contact membership team services at: membership@ebrha.com

EBRHA EVENTS CALENDAR

January

9th

ROUNDTABLE: FEATURING WAYNE ROWLAND

Tuesday, Jan 9th
@ 2 - 3:30PM

16th

MEMBER MEETING: PROTECTING COSTA- HAWKINS

Tuesday, Jan 16th
@ 5 - 6:30PM

18th

SUBSIDIES PROGRAM INFORMATIONL

Thursday, Jan 18th
@ 2 - 3:30PM

25th

NEW MEMBER OPEN HOUSE FEATURING ALAMEDA RENT PROGRAM, OAKLAND RAP, RICHMOND RENT PROGRAM

Thursday, Jan 25th
@ 5:30 - 7:30PM

REGISTER NOW:
WWW.EBRHA.COM/EVENTS

CONTRA COSTA CALLING

County Specific News



Action on Concord Rent Control Ordinance on Hold Until January 9th

Concord renters were raising their voices in protest the second to last meeting of the City Council for 2023. They were blessed with something of a Christmas miracle when a proposed Renter Protection Ordinance was continued until the body's January 9 meeting. The agenda item prompted several questions by council members followed by several hours of public comment before it was decided to continue the item and allow city staff to prepare answers to some questions raised during the council's discussion. According to protest organizers, citing a report from the Anti-Eviction Mapping Project titled "Property ownership and consolidation in Concord," corporate investors, not local "mom-and-pop" property owners, dominate Concord's rental market. 66% of multi-family units in Concord are owned by the top 10% of rental housing providers, which include about 50 corporation.

ALAMEDA AHEAD

County Specific News



Alameda County Minor Home Repair Grant Program

The Minor Home Repair Program serves the Unincorporated County, including the communities of Ashland, Cherryland, Castro Valley, Hayward Acres, Hillcrest Knolls, Fairview, San Lorenzo, and Sunol. Minor Home Repairs can include minor plumbing repairs, carpentry, electrical repairs, railings, grab bars, toilets, doors, locks, water heaters, and more. Grants are available for both Rental and Owner-Occupied housing. Eligible households for minor home repairs must have incomes at or below the income limits. For Lead Hazard Repair Grants, properties must be pre-1960 residential properties in Alameda County. The units must be family housing. SRO hotels are not eligible. Owner-occupied units must be home to a child under six years old or a pregnant woman or be regularly visited by a child under six at least two visits per week of at least three hours each visit. Studio units must be home to a child under six years old or a pregnant occupant. The units must have low-income occupants. Rental Property Owners and Renters can contact us at 510-567-8280 to apply for these grants.