

ASK THE EXPERT

> Tenant issues

by Jason W. Mauck

Recently, the San Francisco Chronicle reported that evictions were on the rise in San Francisco. The paper reported that all evictions are up by 38 percent over the past three years, and a particular form of eviction authorized under the Ellis Act is up by 170 percent over the same time frame.¹



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The landlords' interest in converting apartments to condos isn't surprising given that San Francisco has rebounded spectacularly from the recent economic crisis (if it ever even experienced a dip). Landlords want tenants out of their units and they want them out quickly in order to strike while the iron is hot. With the dearth of new buildings being constructed in San Francisco, it's likely that the market will stay hot for some time.

However, wrongfully evicting a tenant from a unit in San Francisco can expose a landlord to significant liability.

San Francisco has a rent ordinance which regulates both rent amount and imposes "just cause" for evictions. Unlike most areas in the state, which allow eviction for any reason upon 30- to 60-days' notice to a tenant, San Francisco limits the reasons why a landlord can evict a tenant. Some of these reasons are self-explanatory, such as not paying rent, while others are more esoteric, like the family move-in provision.

A landlord must take great care in serving and filing an eviction to meet the requirements of the rent ordinance.

For example, the Ellis Act, the method du jour for eviction, has labyrinthine requirements to take the unit off the market by evicting all the tenants and paying for their moving expenses. Once evicted, buildings under the Ellis Act are usually converted to condos.

A landlord found to have violated the rent ordinance while evicting a tenant is potentially liable for the difference in rent between what the plaintiff now has to pay versus what the plaintiff paid under their formally rent-controlled unit. This can range into the hundreds of thousands of dollars for one tenant.

As you can imagine, if a property owner wrongfully evicts all his tenants under the Ellis Act to take the building off the rental market and convert it to condos, the damages could easily reach seven figures. These are in addition to emotional distress damages and other consequential costs that may be recoverable. Keep in mind that these considerations must be taken into account in other Bay Area cities like Oakland and Berkeley, both of which also have rent control and just cause ordinances.

If you're worried about how to deal with one of your tenants or if a former tenant has contacted you about a potential violation of a rent control or just cause ordinance, our office is here to help. Feel free to contact any of our three bay area locations, San Francisco, San Jose or Oakland, if you have questions about your rental property. ■

¹ <http://www.sfgate.com/bayarea/article/San-Francisco-evictions-surge-report-finds-4955020.php>

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