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memorandum

To

Mountain View Rental Housing Committee

From

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RE

Annual Update on Relevant Legislation and Case Law in California

In 2023, the California State Legislature adopted several bills affecting landlord-tenant law, including, among others, updates to the Tenant Protection Act of 2019 that are intended to strengthen the protections afforded to tenants.

A. SB 567

SB 567 makes significant changes to the Tenant Protection Act of 2019 (also known as AB 1482). AB 1482 imposed both caps on rent increases and just cause for eviction protections for many tenancies statewide. Among the just causes for eviction authorized by the AB 1482 are "owner move-in" and "substantial remodel." As a reminder, the Tenant Protection Act applies to some rental housing units in the City of Mountain View that are not covered by the Community Stabilization and Fair Rent Act.

SB 567 imposes additional parameters on the use of "owner move-in" or "substantial remodel" as the basis for an eviction. The "owner move-in" just cause applies where the landlord seeks to recover possession of a rental unit because the owner or the owner's spouse, domestic partner, child, grandchild, parent, or grandparent intends to occupy the rental unit for a minimum of 12 continuous months as their primary residence. For the purposes of an "owner move-in" eviction, the statute adopts a new definition of "owner" that ensures only a "natural person" may evict on this basis. A landlord may not evict based on an "owner move-in" where the intended occupant already resides in a rental unit on the property or where there is a similar unit already vacant on the property.

SB 567 also imposes post-vacancy requirements on "owner move-in" evictions. First, the intended occupant must move into the rental unit within 90 days after the tenant vacates and must occupy the rental unit as their primary residence for at least 12 consecutive months thereafter. If the intended occupant fails to do either of the foregoing, then the owner must reoffer the rental unit to the tenant who was displaced from the rental unit at the same rent and under the same lease terms that were in effect at the time the tenant

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vacated the rental unit. The landlord must also reimburse the tenant for any reasonable moving expenses incurred in excess of the relocation assistance required by AB 1482 (e.g., one month's worth of rent).

Should the former tenant elect not to move back into the unit, then the landlord may reoffer the rental unit for rent to other tenants, but only at the same lawful rent that was in effect at the time the notice of termination of tenancy was served. Death of the intended occupant during either of the timeframes above does not constitute a violation of SB 567's occupancy requirements.

As it relates to terminations for "substantial remodel," SB 567 redefines "substantially remodel." A landlord may terminate a tenancy where they intend to either (i) replace or substantially modify of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency; or (ii) abate hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws. The "substantial remodel" must be of the type that cannot be reasonably accomplished in a safe manner that allows the tenant to remain in the rental unit and that requires the tenant to vacate the unit for at least 30 consecutive days.

To terminate a tenancy based on demolition or "substantial remodel," the landlord must provide the tenant with a written notice that includes specific information, including, among others, notification of the tenant's right to return to the rental unit at the same rent upon completion of the remodel, and a description of the substantial remodel to be completed or the expected date of the demolition. In addition, the landlord must include a copy of all permits required to undertake the substantial remodel or demolition, or alternative documentation as specified in the statute if no permits are required.

In addition to these changes, SB 567 provides new mechanisms by which to enforce the provisions of the Tenant Protection Act, including empowering the Attorney General and the city attorney or county counsel to bring an action for injunctive relief and authorizing the court to award a tenant three times the damages where the landlord has acted willfully or with oppression, fraud, or malice. The new provisions of SB 567 do not become effective until Aprill 1, 2024.

B. AB 12

Beginning July 1, 2024, AB 12 prohibits most landlords from demanding or receiving a security deposit for a residential rental in an amount that exceeds one (1) month's rent for the rental housing unit.

Where the landlord is a natural person or a limited liability company in which all the members are natural persons and the landlord owns no more than two residential rental properties that collectively include no more than four dwelling units offered for rent, the landlord may require a security deposit in an amount up to two (2) months' rent.

C. SB 267

California law provides that landlords cannot, where the tenant has a government subsidy, use a financial or income standard that is not based on the portion of the rent to be paid by the tenant to assess the tenant's eligibility for the rental housing.

SB 267 updates the law to provide a landlord also cannot use a person's credit history as part of the application process without offering the tenant applicant the option to provide lawful, verifiable evidence of the tenant's reasonable ability to pay their portion of the rent. This can include, but is not limited to, government benefit payments, pay records, and bank statements. If the tenant elects to provide this alternate evidence, the landlord must provide the tenant with reasonable time to provide the alternative evidence and reasonably consider the alternative evidence in lieu of the tenant's credit history.

D. AB 548

AB 548 requires local enforcement agencies to develop policies and procedures for inspecting multifamily buildings where: (1) a code enforcement officer has determined that a dwelling unit is substandard in violation of Health & Safety Code Section 17920.10 and (2) the code enforcement officer has determined that the defects or violations have the potential to affect other dwelling units in the building. The policies and procedures adopted by the local enforcement agency must do all the following:

- Include criteria that code enforcement officers must use to determine whether a condition or violation could affect other units;

- Require code enforcement officers to reasonably attempt to inspect additional units at the property, including at least those units adjacent to, above or below the original unit; and

- Allow for inspection of all units if severe, buildingwide defects or violations are found.

The local enforcement agency must provide the property owner or operator with a written notice or order to repair or to abate within a reasonable after the inspection is completed. The notice or order must advise the owner or operator of each known violation and each action required to remedy the condition or violation. Finally, the local enforcement agency must schedule a reinspection to verify that all of the conditions or violations have been corrected in conformance with the agency's notice or order.

The local jurisdiction must adopt these policies and procedures by January 1, 2025.

E. AB 1418

AB 1418 prohibits local governments from adopting or enforcing any policy that does any of the following:

(1) Imposes or threatens to impose a statutorily defined penalty against a resident, owner, tenant or landlord solely for contacting law enforcement;

(2) Requires or encourages a landlord or imposes a statutorily defined penalty on a landlord for their failure (a) to evict or penalize a tenant for the tenant's association with another tenant or household member who has had contact with law enforcement or has a criminal conviction; (b) to evict or penalize a tenant for the tenant's alleged unlawful conduct or arrest; (c) to include a provision of a lease that provides grounds for eviction not provided by or in conflict with state law; or (d) to perform a criminal background check of a tenant or prospective tenant;

(3) Defines contact with law enforcement or a request for emergency assistance as a nuisance;

(4) Requires a tenant to obtain a certificate of occupancy as a condition of tenancy; or

(5) Establishes, maintains or promotes a registry of tenants for the purposes of discouraging landlords from renting to said tenants.

Local governments that have previously adopted policies that violate the provisions of AB 1418 will need to stop enforcing these policies beginning January 1, 2024. Failure to do so may result in legal action, as AB 1418 authorizes any person or nonprofit organization to bring an action seeking an injunction as well as other equitable relief plus attorneys' fees and costs.

F. AB 1620

AB 1620 creates an exemption to the requirement in the Costa-Hawkins Rental Housing Act that a landlord is entitled to set the initial rental rate at the commencement of every new tenancy. The bill provides that in jurisdictions with rent control, the jurisdiction may impose a requirement that a landlord allow a tenant with a permanent physical disability related to mobility to move to a comparable or smaller unit located on an accessible floor of the property at the same rental rate and the same lease terms. The move must be necessary to accommodate the tenant's physical disability related to mobility, and there must be no operational elevator that serves the floor of the tenant's current unit.

G. AB 1218

AB 1218 amends the Housing Crisis Act to expand replacement housing and relocation assistance requirements that apply when housing units are demolished.

Formerly, various demolition protections applied only to housing development projects that demolished residential units. These required that the proposed project:

- Create as many units as were being demolished;
- "Replace" all "protected" units, meaning that any units occupied by lower income tenants need to be replaced by units of equivalent size affordable to lower income tenants;
- Allow existing tenants to occupy their units until six months before start of construction, with proper notice; and
- Provide lower income tenants with state relocation benefits and a right of first refusal for a comparable unit affordable to the household in the new development.

AB 1218 extends these protections to ***all*** development projects and to sites where protected housing units were demolished in the last five years, except for industrial projects that meet specified conditions. These provisions close a loophole that previously allowed owners to demolish units before applying for a new project, without replacing the units.

For developments that are not housing development projects, AB 1218 provides that the required replacement housing must be developed prior to or concurrently with the development project and must be located within the same jurisdiction. However, the developer may contract with another entity to develop the replacement housing. Finally, at least six months before requiring existing tenants to vacate, the applicant must provide written notice of: (1) the planned demolition; (2) the date the tenant must vacate; and (3) the tenant's rights to relocation benefits and the ability to return to a deed-restricted unit, if income-eligible.