

A WEIGHTY PROPOSITION

Proposition 10, also known as the Local Rent Control Initiative, could allow local governments to adopt rent control ordinances in California. Below, two *WREB* experts weigh in on what this might mean for multifamily investors, owners and developers.

LOCAL RENT CONTROL IN CALIFORNIA COULD DRAMATICALLY EXPAND UNDER PROP. 10 ON NOVEMBER BALLOT

By Jon E. Goetz, Principal, Meyers Nave in Los Angeles

When they cast their ballots on Proposition 10 in November, California voters could open the door to a dramatic expansion of rent control across the state. A high-profile battle over the initiative is already underway as multifamily owners and developers fight to defeat the measure sponsored by tenant advocates. Campaigns surrounding Prop. 10 have raised a substantial amount to date; with opponents raising more than \$20 million and supporters raising \$2.5 million as of mid-August.

The current state law governing local rent control, known as the Costa-Hawkins Act, allows local governments to adopt only a narrow range of rent control measures. The three primary restrictions that cities and counties must follow are:

1. Local rent control laws can restrict only apartments that were constructed before February 1995.
2. Local ordinances must permit "vacancy decontrol," which allows landlords to raise rents to market levels once a tenant moves out and a new tenant moves in.
3. Rents on single-family homes and condominiums cannot be restricted.

Under these restrictions, only a few local rent control ordinances have been adopted since Costa-Hawkins was passed in 1995. However, interest in new rent control ordinances has picked up in the past few years as rents have risen rapidly throughout California. In 2016, Richmond and Mountain View became the first cities in more than three decades to pass new rent control ordinances.

Prop. 10 would repeal the Costa-Hawkins Act and give cities and counties explicit authority to adopt local rent control laws. While Prop. 10 would not impose rent control itself, it would empower local governments to do so. The only restriction in the initiative is that local rent control laws cannot abridge a landlord's right to a fair rate of return on its property, a restriction that essentially restates existing legal protections for owners and landlords.

What Happens If the Initiative Passes?

If Prop. 10 passes, a wide variety of rent control ordinances could be proposed at the local level. For example, local governments would be expected to limit rent increases for units con-

structed after 1995. Some might restrict rent increases for single-family homes, condominiums and accessory dwelling units in addition to apartments, while others are likely to leave rent restrictions in place when a tenant moves out rather than allowing rents to increase to the current market rate for a new tenant.

Rent Rollbacks. Many communities facing an overall housing affordability crisis will not be satisfied with setting rents at current levels; instead, they will seek to roll back rents to past levels. Legal fights are to be expected over the question of whether this would give owners a fair rate of return on their investments, as required in Prop. 10.

Conversion to Ownership Units. The debate continues as to whether rent control incentivizes owners to convert rental housing stock to ownership units, where sales prices are not restricted. To address this situation, proposed local ordinances might require owners to provide current tenants with notices of conversion, rights to purchase units at discounted prices and/or relocation payments upon conversion of rental housing to for-sale units.

Impacts on New Construction.

One of the most powerful arguments against rent control is that it discourages new residential construction if rental income cannot keep up with the ever-increasing cost of building in California. Housing advocates may challenge local ordinances that make it difficult to expand the community's housing supply to state-required levels. Some local governments might consider exempting or providing a grace period for new construction from their rent control ordinances.

Pick Your Battle. Housing financiers, developers, owners and landlords have a choice. They can either fight Prop. 10 on the November ballot, or they can fight the drafting, compliance and enforcement of a patchwork of potentially hundreds of different rent control ordinances passed in cities and counties across California if this proposition passes.



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