

BERKELEY RENTAL HOUSING COALITION

# 2018 ANNUAL REPORT



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## FROM THE EXECUTIVE DIRECTOR

We are proud that what started out as a small group of dedicated rental housing owners who sought to effect change, has turned into a thriving and involved organization in Berkeley.

We've had many visions over the years, some we've been able to act on and others we've had to put on hold. But through it all we have proven ourselves to be an organization that is here to stay.

There are many times in our existence where the opposition wishes we had stopped pursuing our goals. But we remain steadfast in our commitment to fair and balanced public policy in Berkeley.

We know the wheels of government turn slowly. And we know we didn't cause the housing crisis.

We remain focused on how our industry can be part of the solution. We remain steadfast in our efforts to affect change in any way we can. Whether through the efforts of our Political Action Committee, or carefully-crafted lawsuits supported by our Legal Defense Fund, we are clear that there is much more work to be done.

I remain confident in our ability to be a driving force of change in Berkeley. I am proud to be part of an organization of dedicated individuals that care about the future of the rental housing stock in Berkeley.

To our members, I thank you for your commitment and belief in all we do!

A handwritten signature in black ink that reads 'Krista C. Gulbransen'.

**KRISTA C. GULBRANSEN**

*Executive Director*

# MEMBERSHIP & FINANCIAL STABILITY

The BRHC represents all rental housing owners in Berkeley, with the majority of our membership owning 10 units or more. Members of the BRHC are also members of the BPOA.

Thanks to the financial commitment of our members, we have been able to put considerable resources into our political efforts, and wage important legal battles.

In 2018, our members contributed an additional \$606,000 to the statewide fight against Proposition 10.

## 237

*total # of member owners*

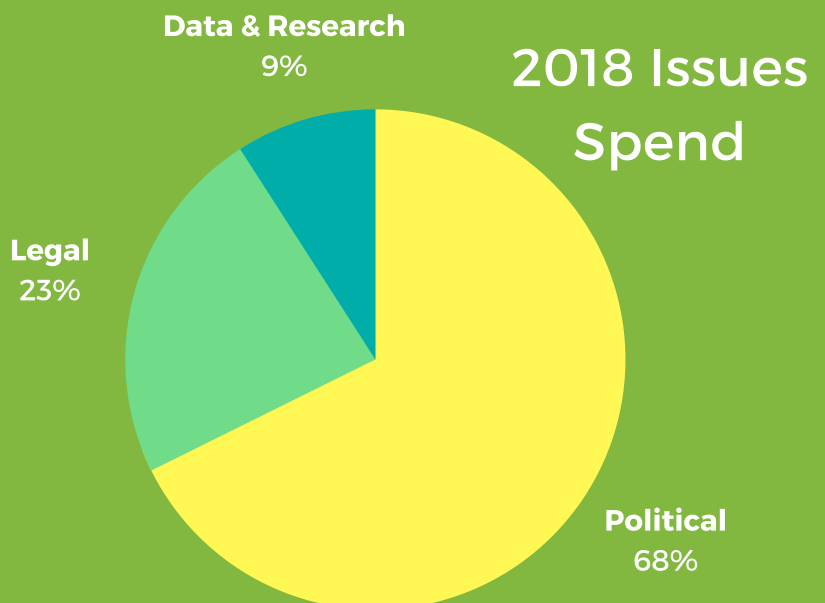
## 2,207

*total # of units represented*

*BRHC financials are available for our members upon request, at [krista@bpoa.org](mailto:krista@bpoa.org)*

The BRHC has one full-time staff member, and one part-time assistant. We aim to focus as much of our resources as we can towards our political and legal goals.

The pie chart represents the weight of our spend as it relates to political, legal and research efforts in 2018. Every year, the board of directors decides the set aside for political issues, legal cases and other operational needs (This chart does not represent our operational costs).







*a year's overview*

# OUR 2018 HIGHLIGHTS

- Defeat of Proposition 10 - Raising More Than \$600k for the Statewide Campaign
- Defeat of the "First in Time" Proposal - an Effort to Force Rental Housing Providers to Take the First Qualified Applicant
- Modification of the "Vacancy as a Condition of Nuisance" Proposal to Include Both Vacancy *and* Blight as a Condition
- Settlement with the Rent Board to Automatically Allow for Rent Increases on Seismic Capital Improvements for Owners of 12 or Fewer Units
- Diverted City Council's Attempted Use of Measure U1 Business License Tax Money for Purchase of Premier Cru Property for City Council's Personal Use

# POLITICAL ACTION

Statewide Efforts in 2018



## THE DEFEAT OF PROP 10

At the end of 2017 it became clear that the effort to repeal Costa Hawkins was well on its way. It started with Assembly Member Chiu's bill (AB 1506), which sought to repeal Costa Hawkins. Heard before the Housing Committee in January 2018, we responded swiftly by busing Berkeley rental housing providers to the State Capitol to log their opposition. Although successful at defeat with the Legislators, our celebration was short-lived when tenants announced their intent to take the fight to the state ballot.

Our organization acted quickly, joining forces with the California Rental Housing Association (CalRHA) and the California Business Roundtable (CBRT) to launch the Prop 10 Flaws campaign. Berkeley rental housing providers dug deep into their pockets, making a significant contribution to our total fight budget of \$35mm.

Our efforts were successful and we defeated Prop 10 with a 61% "no" vote at the state ballot box, proving that when we organize and focus, we can protect property rights.

**BERKELEY OWNERS CONTRIBUTION  
TO THE FIGHT AGAINST PROP 10**

**\$606,810**

# STATE HOUSING LAWS

The BRHC is an affiliate of the California Rental Housing Coalition (CalRHA), a statewide clearinghouse for 10 associations representing 22,000 owners and over 500,000 units of rental housing up and down the state. CalRHA's primary focus is on state rental housing law, working to influence and negotiate policy with Legislators. In 2018, CalRHA's focus was on the defeat of Prop 10, but it was also the role of the association to keep an eye on legislation that impacts rental housing providers.

## KEY LAW CHANGES AFFECTING HOW YOU DO BUSINESS

### CHANGE IN TIMELINE FOR TENANTS' RESPONSE TO LEGAL NOTICES

State law maintains that tenants have three days to comply with lease terms or pay rent, and five days to respond to eviction proceedings. The new provision (AB 2343) swaps calendar days to court days — no longer counting weekends and holidays in the respondent's timeline. The new law takes effect September 1, 2019. This was an attempt to abolish some rental housing owners' practice of delivering eviction or "cure or quit" notices on a Friday of a holiday weekend, a time in which legal defense clinics were not open. It's important to note that failure to calculate the new time period will be reason for the court to deem the notice invalid. Also worth noting is that the new law does *not* impact nuisance notices.

### MANDATORY ACCEPTANCE OF THIRD-PARTY PAYMENTS

Beginning January 1, 2019 owners will be required to accept rent payments from any third party that the tenant uses to pay rent. In order for an owner to take the rent payment from a party other than their tenant, certain conditions must apply. Most important of which is the third party's requirement to sign a letter of acknowledgement that says the acceptance of the rent payment does not establish a landlord/tenant relationship and that the third party paying the rent is not considered a tenant of the property. In addition, the law notes that if a state or federal program is making the rent payment, the owner is not required to get into a contract with that party. Other conditions include that acceptance of the payment does not require the owner to accept future rent payments beyond the 3-day notice period.

# CITY HALL

## BERKELEY POLITICS

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### THE WHEELS OF POLITICAL POLICY TURN

Every year it's a race to keep up with the myriad of city commissions, agencies and Ad Hoc committees that are responsible for shaping rental housing policy in Berkeley. Most all commissioners and elected officials in 2018 were favorable to the "tenant protection" agenda.

Unfortunately, this kind of agenda typically does not lend itself to reasonable policy development. Most representatives have convinced themselves that rental housing providers are only out to do harm to tenants. Every year, we spend large amounts of time working to beat back as much harmful policy as possible.

We hope that one day, rather than spend our time arguing against harmful policy, we will be able to present reasonable approaches that strike a balance between parties. We are realistic in our understanding that in order to do so, these government bodies will have to do a bit of stretching of the mind, but we remain hopeful.

**In 2018, our organization attended, took notes and spoke out at over 100 government meetings. Policy groups we watch include:**

- \* City Council
- \* Rent Board
- \* Housing Advisory Commission
- \* 4x4 Joint Committee on Housing
- \* IRA/AGA/Registration Committee
- \* Eviction/Section 8/Foreclosure Committee
- \* Habitable & Sustainable Housing Committee
- \* Commission on Disability
- \* Fair Campaign Practices Commission
- \* Joint Subcommittee on Implementation of State Housing Laws
- \* Planning Commission
- \* Housing Authority Board



**2017**

**97**

Total # of Rental  
Housing Items on  
Policy Agendas

**2018**

**80**

Total # of Rental  
Housing Items on  
Policy Agendas

**38%**

% of Items That  
Passed\*

**36%**

% of Items That  
Passed\*

\* includes such policies as support for state legislation, as well as minor modifications to existing regulations

# 2018 PROPOSED POLICIES

*We tracked over 80 separate housing-related policies proposed by elected and appointed officials in 2018. Below are some of the most potentially damaging proposals, their outcomes, and future expectations.*

## **Supply of Rent Controlled Units Following Disaster**

Dictating how rental housing will operate and be rebuilt after a massive earthquake. This proposal only started to take shape in 2018 and we expect will continue into 2019 and beyond. We will be especially focused on the demand to rebuild and offer housing at the rent-controlled price prior to the disaster.

## **Specifying that Vacancy after a Given Period in a Residential Building is a Condition of Unlawful Nuisance**

A poor attempt by a Councilmember to force owners with vacant units to put their units on the long-term market. Our Executive Director debated the Councilmember on public radio, emphasizing that harmful regulations caused owners to remove units from the market, and emphasized that until regulations change, these units would remain off the market.

## **Referral for "First In Time" Ordinance**

Would require owners to take the first "qualified" applicant for a unit, regardless of any other considerations a rental housing provider might want to make. Our Executive Director convinced the Housing Advisory Commission not to advance the proposal to the City Council, arguing that Seattle's ordinance was under litigation for a possible violation of constitutional rights, making it unwise to advance in Berkeley.

## **Tenant Opportunity to Purchase Act**

Modeled after the Washington D.C. act, Berkeley seeks to force owners of rental housing to offer tenants the chance to purchase the building before being put on the open market. Tenants would have up to six months to secure financing, holding up any possible sale of the building until then. The D.C. Realtors Association reports this Act has caused the delay of sales up to two years in time. We expect an attempt to advance this policy in 2019.

2018

# OTHER PROPOSED POLICIES

- Referral to City Manager Regarding Premier Cru Property (purchased using BLT funds)
- Improving the City's Elevator Ordinance
- Referral to Allow Zoning Amendments to Increase Student Housing
- Referral to Consider Amendments to the Zoning Ordinance & "Mini-Dorm" Ordinance
- Address Conversion of "Not Available to Rent" Rental Units
- Referral to Establish a "Fair Chance" Ordinance to Mitigate Discrimination Against Former Incarcerated People
- Review of the Smoke-Free Residential Housing Ordinance
- Modifications to Relocation Ordinance (Increase of Stipends)
- Advancement of Required Automatic Door Openers in Multi-Unit Residential Buildings Ordinance
- Housing Code Enforcement Monitoring
- Improving the City's Elevator Ordinance (Requiring Punitive Actions for Owners Delayed Response to Fixing Broken Elevators)

# LEGAL DEFENSE FUND

## SUING THE RENT BOARD



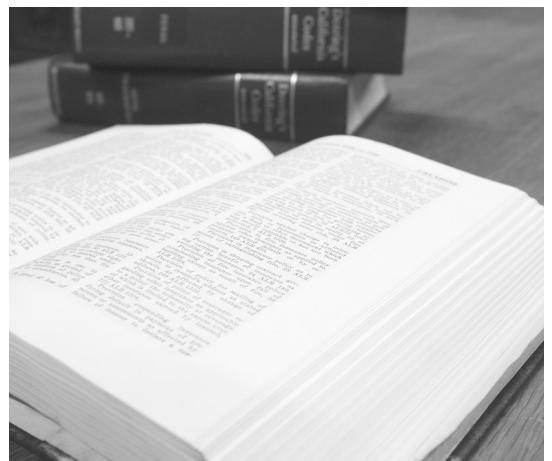
In mid-2018, the BRHC launched a lawsuit against the Rent Board for its unfair "offset" policy used when calculating capital improvement rent increases. The Rent Board uses vacancy decontrol moments to "offset" any rent increase gained through a capital improvement. The BRHC funded a suit for two of our members who were required to do a soft story retrofit on their 8-unit building, but were ultimately denied a rent increase despite having two units with "old rent control." The lawsuit resulted in a settlement for automatic rent increases on seismic capital improvements for owners of fewer than 12 units.

Every year the Legal Defense Fund reviews and considers a number of lawsuits where efforts to establish reasonable rental housing policy has not succeeded. We vet all potential legal cases using a handful of Bay Area law firms specializing in suing city governments and government agencies.

In 2018, our primary lawsuit resulted in an immediate offer by the Rent Board to settle. Due to a "loophole" the Rent Board found during our lawsuit process, we were forced to agree to a settlement that only impacted owners of 12 or fewer units.

But this has not deterred us from immediately turning around and making headway on filing a similar lawsuit to expand rent increases for a larger swath of capital improvements and for much larger owners in Berkeley.

We will continue our exploration of additional lawsuits in 2019 as well as launching an exciting new legal membership benefit!





**2019**

# **BRHC GOALS**

## **Impact Housing Policy at the State Level**

- Negotiate the reform of Costa Hawkins
- Oppose or support critical state-wide rental housing bills

## **Prepare for the 2020 Berkeley Ballot**

- Develop a ballot measure impacting the Rent Board's ability to do business
- Participate in defeat of/support of City Council and Mayoral candidates

## **Create Like-Minded Coalitions**

- Support and participate in the development of a coalition of community members that share our concerns about city's governance, expenditures and policy-making

## **Develop Eviction Legal Support Fund**

- Provides financial support for eviction jury trials
- New member benefit, open to members of at least one year and in good standing

## **Create Housing Policy Committee**

- Community group to discuss new solutions to the age-old housing crisis problem
- Open to BRHC & BPOA members, as well as other interested parties and elected officials

LET'S CONTINUE TO PAVE THE WAY FOR REASONABLE AND  
EQUITABLE RENTAL HOUSING POLICY FOR ALL.

# BERKELEY RENTAL HOUSING COALITION

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## HAVE QUESTIONS?

WE WELCOME YOUR THOUGHTS! E-MAIL  
US AT [KRISTA@BPOA.ORG](mailto:KRISTA@BPOA.ORG)

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