

## California gearing up for big battle over rent control

Kathleen Pender

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Noni Richen sweeps the sidewalk in front of the four-unit apartment building she owns in the Western Addition. All four two-bedroom units are rent-controlled, and all tenants have lived there for years.

Photo: Photos by Jessica Christian / The Chronicle

Battle lines are forming over what could be one of the most contentious fights about housing in California in decades.

I'm talking about [Proposition 10](#), the November ballot initiative that would overturn California's Costa-Hawkins Rent Control Act and let local governments impose any form of rent control on any type of rental housing within their jurisdictions.

“The future of California is at stake here,” said Ken Rosen, chairman of the Fisher Center for Real Estate and Economics at UC Berkeley and a fierce opponent of the measure.

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What the measure boils down to is whether housing “is an essential, like a human right — something that everyone needs and deserves, or whether one views housing as just another commodity that should be bought and sold and rented without limits,” said Prop. 10 supporter Dean Preston, executive director of Tenants Together, a statewide nonprofit for renters rights.

The Legislature passed Costa-Hawkins in 1995, after some cities had enacted aggressive rent control rules in response to housing shortages and affordability issues. The law said cities (and counties for their unincorporated areas) could limit rent increases — what we think of as rent control. But it said rent control could not apply to single-family homes or condos of any age or to multifamily buildings first occupied after Feb. 1, 1995 (or earlier if a city already had rent control with a previous cutoff date).

It also said owners of rent-controlled properties could charge whatever they want after a tenant moves out, but once the new tenant moves in, rent increases would be subject to the annual limit. This is known as vacancy decontrol.

If Prop. 10 passes, local jurisdictions could impose rent control on all property types, including single-family properties and new construction. They also could prevent landlords from charging whatever they want when a unit turns over. This is known as vacancy control.

If voters approve the measure, most local governments — or their citizens through the initiative process — would still have to adopt rent control, or modify an existing program to tighten their rules. However, some cities that had strict rent control ordinances before 1995 still have them on the books and just stopped enforcing provisions that Costa-Hawkins struck down. If Prop. 10 passes, “they wouldn’t have to pass a statute, they could just flip a switch” and start enforcing the old provisions, said Debra Carlton, senior vice president with the California Apartment Association.

Richmond’s rent control ordinance, passed in 2016, would automatically apply to single-family and new construction homes if Costa-Hawkins is overturned, Carlton said.

Richmond's rent program attorney, Charles Oshinuga, said he's researching what impact Costa-Hawkins repeal would have on the ordinance and hasn't reached a conclusion.

Tenant organizations and other groups got enough signatures to place Prop. 10 on the ballot after recent legislative attempts to strike down Costa-Hawkins got nowhere.

Last weekend, the California Democratic Party voted to support Prop 10. Its main sponsors are the AIDS Healthcare Foundation and its president, Michael Weinstein, and the Coalition for Affordable Housing. Other backers include the Service Employees International Union, the California Teachers Association, the California Nurses Association and the American Federation of State, County and Municipal Employees. Backers have raised \$2.36 million.

The Republican Party is against it. Other opponents include the California Apartment Association and the California Rental Housing Association, which represent landlords, the California Chamber of Commerce, the State Building and Construction Trades Council of California (a labor union), the California Realtors Association and the NAACP. Opponents have raised \$15.3 million, much of it from large apartment developers.

Costa-Hawkins does not prevent cities from imposing eviction controls on any type of rental housing — including single-family homes and apartment buildings of any age. Most cities with rent control, and a few without, have adopted some type of eviction controls on some or all types of rental units. They typically say landlords cannot evict tenants, even after their lease has run out, except for certain reasons. These can include the tenant failing to pay rent or dealing drugs on the premises; the owner or a relative moving in; or the owner taking the unit off the rental market. Prop. 10 will not impact eviction controls.

In California, 55 percent of households are occupied by owners and 45 percent by renters. Nationwide, that ratio is 64 percent owners and 36 percent renters, according to U.S. Census Bureau data.

Opponents say abolishing Costa-Hawkins will aggravate the state's housing shortage by discouraging new construction and encouraging some landlords to take existing units off the market.

But Prop. 10 proponent Daniel Saver, senior attorney with Community Legal Services in East Palo Alto, said California cities generally have not applied rent control to new construction and are not likely to if Costa-Hawkins dies.

However, some cities with rent control are talking about applying it to units built since 1995 but before a certain date, or to newly built units after they reach a certain age. Berkeley's Rent Stabilization Board has recommended exempting new construction from rent control for the first 12 to 15 years if Costa-Hawkins is repealed.

This approach "is the equivalent of putting it on new construction. It's a confidence issue. No one will ever trust a locality again," Rosen said. "I've had 30 calls from people thinking about investing in (existing) units or new construction. They are putting their plans on hold" pending the outcome of Prop. 10.

Michael Schall, the CEO of Essex Property Trust — a big apartment developer and Prop. 10 opponent — discussed Costa-Hawkins in a May earnings call. He said the measure did not seem to impact transactions (the purchase or sale of apartment buildings) in the first quarter. "As we get closer to November, perhaps (it will) a little bit."

About 37 percent of California's rental stock is single-family homes, Rosen said, and most of those are owned by mom-and-pop landlords who own one or a few properties.

Noni Richen, president of the Small Property Owners of San Francisco, owns a four-unit apartment building across from her home in the Western Addition. "It has been a good investment for us, but it certainly has its headaches and heartaches. We are often required to do upgrades that are expensive," she said.

All four two-bedroom units are rent-controlled, and all four tenants have been there for many years. The newest one pays \$1,700 a month, the others around \$1,000. If she renovated and re-rented them, they'd probably rent for \$2,500 each, she said.

Richen is turning a small profit, and the building is worth far more than she and her husband paid in 1984. But the appreciation "doesn't pay for maintenance. Our plumber doesn't take equity for his repairs," she said.

If Prop. 10 passes and San Francisco put single-family homes under rent control and implemented vacancy controls, it would "devastate" the city's rental market, Richen added. "It would make it almost impossible to make needed upgrades and would encourage people to take units off the market. In my neighborhood, all kinds of units used to be rental, now they are tenancies in common or condos. Some are just sitting vacant awaiting their next life."

Saver argues that most property owners are better off financially than most renters. "If you are having a really hard time and you have a multi-family building in San Francisco, you can

sell it,” he said.

Prop. 10 opponents point out that virtually every economist in the country opposes rent control. And because there is no means testing, it benefits rich people as well as poor ones. If vacancy decontrol goes away, “We have suggested that means testing be part of anything going forward,” Carlton said. “The tenants organizations don’t like to talk about means testing.”

Preston, the tenant advocate, agrees that rent control “certainly protects everyone who rents. But really rich people in our society tend not to rent property. They tend to own it.”

Most tenants “cannot and will not ever be able to afford a home,” he said. “They deserve the security of being able to live in a community, pay reasonable increases and not be threatened with massive increases or displacement for no reason.”

As for the argument that rent control tramples on property rights, Preston said it’s just one way that governments limit what property owners can do. Homes are subject to zoning laws and landlords must follow many laws, such as when they can enter a home. The courts, he added, have established that investors are entitled to a “fair return” on rent-controlled units.

What that fair return is could become the subject of much litigation if Costa-Hawkins is overturned.

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