

CBPA CALIFORNIA 2018 YEAR-END WRAP UP



During the 2018 legislative session, the commercial, industrial, and retail real estate industry had many policy successes on key issues even though we still have lopsided legislative majorities in both Houses of the California State Legislature. Below are just some of the highlights – good and bad - from 2018.

COMMERCIAL TAX LAWSUIT -- In conjunction with the Howard Jarvis Taxpayers Association (HJTA), CBPA, BOMA California, and the California Business Roundtable have filed suit in the Superior Court in San Francisco challenging the city's special tax on commercial property (Proposition C – passed in June 2018), an illegal and punitive gross receipts levy which will reduce commercial property values in the city by up to 12% and have ramifications across the state. The basis for the lawsuit is that the California Constitution clearly holds that special taxes at the local level have required a two-thirds vote of the electorate as mandated by Propositions 13 and 218. We assert because the tax is expressly for a special purpose, it required a 2/3 vote of the city's electorate; Measure C, received a scant 50.87% vote.

IN A BLUE WAVE WE HELPED ELECT ONE OF OUR OWN/DEFEAT RENT CONTROL -- The November 2018 Elections saw a Democrats sweep every statewide office, including a 19% win for Gavin Newsom. Both houses of the Legislature also no have a Supermajority of Democrats, as well at the National-level the Democrats have taken over the house of Representatives. However, our industry was able to find some success in this “Blue Wave” of a year including helping to elect someone from our own industry, Eleni Kounalakis, as Lt. Governor, and soundly defeating Proposition 10, the rent control measure.

SPLIT ROLL TAX BALLOT MEASURE – CBPA is an Executive Committee member of the political effort to push back against the myriad of groups attempting to put a split roll measure on the ballot. After more than four years of rebutting arguments with editorial boards, at school board meetings, and a statewide education campaign, to defeat SCA 5, leaders of the “Make It Fair” campaign (funded primarily by public employee unions) paid signature gatherers to hit the streets and ultimately collected enough to put the measure on the Nov. 2020 ballot. Our goal now is to raise money to execute a statewide campaign to educate voters about the debacle that split roll property tax will be to owners and tenants alike.

LEGISLATIVE/POLITICAL EVENTS – CBPA members and leadership participated in several high-level events which provided access to peers and policymakers. Starting in January CBPA hosted a Legislative Luncheon in Sacramento which was attended by twenty Assemblymembers and Senators from both parties. In April, we hosted a Legislative Meeting at which CBPA members could weigh-in on industry positions on over 500 bills. In June, our industry converged on Sacramento to attend the “California Commercial Real Estate Summit,” in which real estate leaders met with Gubernatorial staff and over 1/3 of the Legislature. In October, CBPA co-hosted an event in with the Lt. Governor Newsom who is considered by far and away the favorite to win. That was an important meeting as we were able engage on his position on Split Roll property tax and may have detected an ability to work with him on comprehensive tax reform.

LEGISLATION – On behalf of the commercial real estate industry, CBPA tracked 1,157 pieces of legislation in the CA State Capitol this legislative session and directly engaged on over 400 bills. A full listing of bills, positions, and outcomes can be provided separately.

REGULATIONS – On behalf of the commercial real estate industry, CBPA engaged regulatory agencies ranging from the California Energy Commission to the Division of the State Architect to the Department of Water Resources. This year, CBPA staff or members served on the newly formed State Access Code Collaborative, Adult Changing Station workgroup, Ghost Ship Fire Task Force, Benchmarking and Submetering Task Force, the CEQA Workgroup, and several Building Standard Commissions workgroups including the Green Building Code and Fire Code Workgroups.

BENCHMARKING REGULATIONS/EDUCATION – As a primary proponent of AB 802 we helped repeal the flawed AB 1103 statutory requirements which will allow for more flexible regulations. The new law keeps the benchmarking requirements but removes the statutory requirement benchmarking be completed during escrow, limits it to buildings over

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50K s.f., allows the commission to exempt certain buildings, and delayed implementation. Final regulations have been adopted and reporting began in July of 2018. CBPA worked with the CEC to design and execute a communications plan targeted toward our industry. Our members also were able to access special webinars and conference calls that enable direct engagement with regulators to ask about procedure for reporting and who the regulation applied to.

CALIFORNIA COMMISSION ON DISABILITY ACCESS VP – Through previous legislation we helped establish the California Commission on Disabled Accessibility that promotes and facilitates disability access compliance. CBPA works directly with the Governor’s Office to name our industry representative to this board, which is currently CBPA boardmember Doug Wiele. Doug was elevated to Vice President of the Commission this year for a second time and has served throughout 2018 representing your interests.

LACTATION ACCOMODATION DEAL – We worked very hard with Assemblymember Limón to come up with a bill that increases requirement for accommodating lactating mothers, while assuring companies can comply. AB 1976 is based on current federal/state law that now requires employers’ to provide a room or location for lactation, other than a bathroom. The author worked with our industry and took significant language to deal with situations where there is no alternative and to assure the requirement was enforced only when an accommodation was actually needed. We are pleased the Governor signed this bill into law and vetoed a competing measure, SB 937, that our industry opposed.

SPONSORED BILL REFORMS ABANDONED PROPERTY LAW – We sponsored and got signed into law, AB 2173 (Santiago) which updates the state’s commercial abandoned property laws by increasing the threshold amount needed to trigger an official disposition (auction) process. The new threshold is now raised from \$750 or less to \$2,500 or an amount equal to one month’s rent for the premises the tenant occupied, whichever is greater. The Governor signed the measure into law.

SPONSORED BILL ADDRESSED SEPERATES COMMERCIAL SECTION – We sponsored AB 2847 (Rubio) – a technical bill that clarifies that current Civil Code §1951.3 pertains to residential real estate only and creates a new section mirroring it to deal with commercial. This fix was needed as the statute provided certain obligations/protections for residential owners/tenants that did not make sense in the commercial context yet were being applied to our sector because the law was not clear. The Governor signed this bill into law.

SPONSORED BILL EXTEND EIFD LAW - We sponsored a measure, SB 1145, in conjunction with Economic Development professionals to extend the new Enhanced Infrastructure Finance Districts, to enable them to finance ongoing or capitalized costs to maintain public infrastructure. Prior to this bill, our properties could pay fees to get infrastructure such as bridges built, but those fees could not be used to maintain the structure. We are pleased the Governor signed this bill.

ZERO CARBON PLANNING GOAL -- We opposed SB 100 (de Leon; D) and stopped it in 2017. Unfortunately, in 2018 the Senate *pro Tem* and U.S. Senatorial candidate was able to get the votes and the bill passed and was signed by the Governor. Although significantly amended to address some of our concerns, we are still worried this bill will increase the cost for energy by creating an ambiguous zero-carbon energy planning goal and requirements for regulatory agencies in the state and moving up the deadlines.

DUAL AGENCY BILL DEFEATED – AB 1059 (Gonzalez-Fletcher – D) a bill that puts an outright ban on dual-agency transactions and firms that conduct dual-agency deals, was stalled in its first policy committee, but came back early in 2018. We were prepared and employed a statewide strategy to educate policymakers on why dual agency real estate transactions and firms in the commercial context were a healthy and positive part of our transactions. We were able to defeat the bill in committee as it fell two votes short.

MAJOR EMPLOYMENT LAWS – A tranche of bills opposed by business groups affecting employment law was passed and signed into law by the Governor. If you hire employees or contractors you should work with your HR experts and be aware of your new obligations under the law. These major laws were enacted: Salary Inquiry Ban; Ban-the-Box -

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Prior Conviction History of Applicants; New Parent Leave Act and Parental Leave DFEH Mediation Pilot Program; Retaliation - Expanding the Labor Commissioner's Authority; Immigration – No Worksite Enforcement Actions; Harassment Training - Gender Identity, Gender Expression, and Sexual Orientation.

“OPPORTUNITY TO WORK ACT” DEFEATED – We were part of a coalition that helped defeat AB 5 (Gonzalez-Fletcher) a union-sponsored bill that sought to require any employer with 10 or more employees to offer additional work hours to an existing nonexempt employee before hiring additional employees or a subcontractor. This bill would have completely disrupted the commercial real estate industry from retailers who need to hire more help during the holidays to building managers that rely on contractors for most building maintenance issues.

PROP 65 GUIDANCE – New Proposition 65 warnings came into effect in August 2018. Entities doing business in California are now required to provide new and additional “Prop 65” warnings. Many companies will need to consult with an expert in this area, however as a resource to the industry and for those companies with internal resources, we worked with a noted Prop 65 experts to provide guidance through written materials and webinars to give our members a head start and to mitigate the overall costs involved.

EXTENDED BUILDING PERMITS– We supported AB 2913 which was signed into law with regards to the building standards which are in effect on the day a permit application is submitted to a local building department. This bill extends the permit expiration date from 6 months to 12 months, saving our members time and money when a project takes longer than anticipated to get started.

COST EFFECTIVE BILL DEFEATED – We stopped AB 3001, which contained an attempt to change the state’s longstanding definition of “cost effective” by requiring the Energy Commission to quantify the economic value of environmental and societal benefits of GHG reductions. This would have made “full ZNE” cost effective and would have allowed the CEC to adopt standards costing over \$30,000 per home and potentially millions of dollars for certain commercial buildings starting in 2020.

ALL ELECTRIC BILL DEFEATED – We helped stop expensive provisions of AB 3232, introduced, this bill would have required all new homes and commercial buildings to be all-electric starting in 2030 regardless of whether it was cost effective. We were able to get enough votes to stop the bill when enabled us to work with the author to rewrite the measure into a form we did not oppose. It now requires the CEC to study the interactive effects of EV charging, solar power and electrification efforts on grid reliability and the consumer’s pocket book. A huge win for our industry!

SEISMIC STANDARDS STRINGENCY BILL VETO – We were instrumental in getting changes made to AB 1857 a bill we initially strongly opposed as it required the emergency adoption of structural safety building standards 50% more stringent than the standards in effect today adding potentially millions of dollars in costs to commercial buildings. At the request of industry, this bill was completely rewritten to require state code agencies to convene a working group to see if California’s seismic safety standards need to be changed at all. The Governor vetoed the measure.

RED TAG SEISMIC BILL VETO – We were instrumental in getting changes made to AB 2681 which we strongly opposed as it would have required local jurisdictions throughout the state to identify all seismically vulnerable buildings in their jurisdictions and to place that information on a public website. This would have cost local jurisdictions hundreds of millions of dollars and would have made potentially sensitive information readily made public. At the request of industry, this bill was rewritten to limit the scope of the bill. However, even with the industry supported amendments, the Governor vetoed this legislation.

BILL TARGETING WAREHOUSED VETOED – We were instrumental in making the case that AB 2853 should be vetoed by the Governor. Our industry strongly opposed the bill as it unreasonably targeted one building type, warehouses, when working together with a local government on certain economic development subsidies. Current law already requires extensive disclosure of information by all project types getting such subsidies. This bill sought to layer on more requirements specifically for warehouses. We are pleased the Governor Vetoed this bill.

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