

CBPA Weekly Update- October 1, 2021

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STATEWIDE COMMERCIAL EVICTION MORATORIUM EXPIRES

The California Executive Order explicitly authorizing local government the ability to adopt local COMMERCIAL eviction moratoriums expires today. The Governor has given no indication he will extend the order again.

The original Executive order “N-28-20,” adopted in March 2020, specifically allowed local governments to halt Commercial Evictions to May 31 and has been extended several times. Our industry supported the initial Executive Order and did not push back on extensions as we understood the policy need. However, we applaud the Governor for letting it expire as part of the plan to allow the state to get back to normal.

Residential relief is found in statewide provisions of SB 91/AB 832 and do not apply to commercial real estate. However, many local jurisdictions have adopted local ordinances which prevent eviction of commercial tenants.

Although many jurisdictions believe they have the authority under local emergency powers to enact such local eviction ordinances, the Governor’s statewide order has provided specific authorization to cities and a certain amount of legal cover.

You can view the expired EO [here](#) N-03-21.

LAWSUIT AGAINST L.A. COUNTY COMMERCIAL EVICTION BAN

There is, however, some activity in the courts to address the ability of local governments to enact and enforce local commercial eviction moratoriums. Earlier this year a lawsuit was filed against Los Angeles County's commercial eviction ban. [*Iten v. County of Los Angeles*](#) seeks to end L.A. County's commercial eviction ban. The Pacific Legal Foundation represents Howard Iten, the commercial property owner and plaintiff in the case.

Below is the PLF press statement, [here](#) is a link to the case page, and the online press release can be found, [here](#).

From the PLF press release:

Los Angeles; January 19, 2021: Today, the owner of a commercial building filed a lawsuit challenging Los Angeles County's moratorium on commercial evictions. The lawsuit is the first to challenge a commercial eviction moratorium.

Howard Iten is a retired auto mechanic who leases his garage to an auto repair franchisee, and he relies on the income from the lease for his retirement. Although his tenant's business has been open through the pandemic, the tenant owes Iten more than \$30,000 in rent.

"The County can't put the burden of the pandemic only on the shoulders of landlords," said Damien Schiff, a senior attorney at Pacific Legal Foundation. "L.A. County's heavy-handed

response to COVID-19 has hit businesses hard. It's unfair and illegal for the County to force commercial landlords to bear the costs of those policies.”

Filed in the U.S. District Court, [Iten v. County of Los Angeles](#) seeks to end L.A. County's commercial eviction ban. PLF represents Howard Iten free of charge.

Although many owners have already worked out issues with tenants to keep them in place during the pandemic, the patchwork of local ordinances has proven to be very challenging for our industry.

The lead counsel for PLF in the case, Damien Schiff, gave a detailed presentation on the case to our last board meeting during the California Commercial Real Estate Summit.

The County of Los Angeles has moved several times to dismiss the case, but at this point have not had success and it continues to be a viable challenge.

HERE WE GO AGAIN... NEW SPLIT ROLL MEASURE SUBMITTED

Although we reported this last week, many of our members remain in disbelief that another challenge to Prop. 13 is again in the pipeline. It's, unfortunately true.

Less than a year after voters soundly defeated Proposition 15 last November, a measure to create a split roll property tax, some of the same proponents are already trying to qualify a new split roll measure.

With a title that sounds like it comes from the mind of Franz Kafka, the “*Housing Affordability and Tax Cut Act of 2022*,” is a new measure submitted yesterday to the California Attorney General to begin the process of becoming a statewide proposition.

At its heart, the measure is a split roll property tax that will increase taxes for all properties valued over \$4 million – non-residential and residential alike – including homes and apartments complexes.

We are in process of analyzing the measure and will provide that soon. For now, you can [click here](#) to read what was submitted.

Although our industry is not looking for another statewide campaign on this issue the same successful leadership group that helped defeat the Proposition 15 is already meeting and gearing up to defend against this massive tax increase.

NEW SPLIT ROLL INITIATIVE WILL BRING BROAD OPPOSITION

Rex S. Hime, President and CEO, of California Business Properties Association, representing the **largest commercial real estate consortium** in the nation with over 10,000 members in California, blasted the re-introduction of a split roll property initiative.

“Our state and nation need to focus on helping the economy recover from the devastation of more than a year and half of pandemic induced closures. Small businesses and major employers alike in California are threatened as never before and

this massive tax increase will prolong the recession, put people out of work, and increase rents on apartments,” said Hime.

Since Proposition 13 took effect in 1979, property taxes have more than doubled after adjusting for population growth and inflation. Local property taxes are estimated to top \$79 billion this year, more than any other [state’s total general fund budget](#). Only once since Proposition 13 have property tax revenues ever declined—during the Great Recession a decade ago—and over the four decades, the average annual growth has been 7%.

“The voter just rejected this bad idea, there is no need to go down this path again. Additionally, the state has the largest budget surplus in history – we call on leaders to dedicate these funds to get California’s economy back on track and to reject this divisive initiative,” concluded Hime.

CBPA is the designated legislative advocate for the International Council of Shopping Centers (ICSC), the California Chapters of the Commercial Real Estate Development Association (NAIOP), the Building Owners and Managers Association of California (BOMA), the Retail Industry Leaders Association (RILA), the Institute of Real Estate Management (IREM), and the Association of Commercial Real Estate – Northern and Southern California (ACRE), and AIR CRE.