

Practice Update

California Proposition 10: Rent Control and the Repeal of Costa Hawkins

September 26, 2018

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In California, the November 6th ballot will have its usual smorgasbord of controversial voter initiatives. Among them is Proposition 10, which serves to repeal a statewide law known as the Costa Hawkins Rental Housing Act (Costa Hawkins) and relax certain limits on the rent control ordinances passed by local cities.

Under Costa Hawkins, a city may not restrict residential landlords from raising rents to market levels after a tenant vacates, nor may it impose rent control on units constructed after 1995, or on single family homes and condominiums. Proponents of the measure argue that housing costs have spiraled beyond the reach of families with modest incomes, and opponents assert that capping the returns on housing stock will stifle development. About a dozen cities in California have rent control, including Los Angeles, Santa Monica, West Hollywood, Berkeley, San Jose, and Oakland. A back of the envelope calculation of registered voters reveals that the cities with rent control have approximately 3.3 million registered voters, while there are total of approximately 18 million registered voters in the State (based on 2013 statistics). Therefore, the supporters of the initiative are banking on the support of voters in non-rent control areas.

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Both sides have raised substantial amounts. Supporters have about \$13 million in their coffers, while opponents have almost three times that amount. The principal backer of the initiative is The Coalition for Affordable Housing. The opposition is led by two PACs organized by the California Apartment Association and the California Rental Housing Association. A third PAC was also formed in opposition which calls itself, “No On Prop 10.” Since single family homes are at risk of becoming subject to rent control, investors who swept up thousands of single family homes at foreclosure sales during the downturn which are now part of the rental stock, are one of the funding sources for opposition of this measure.

Neither Gavin Newsom nor John Cox, the Democratic and Republican gubernatorial candidates, support full repeal of Costa Hawkins. Newsom says that wholesale repeal would “have unintended consequences on housing production that could be profoundly problematic,” and Cox has stated that he doesn’t believe rent control works.

Conversations with real estate brokers who handle multifamily sales observe that the presence of the initiative on the California ballot has had an immediate impact – it’s prompting apartment owners to sell who were not ready to sell or who otherwise were on the fence. Also, last year, if an apartment building was priced right, there were one to ten offers. Now there’s one to three offers. Historically, investors have paid a premium for non-rent control buildings. So if an exempt building becomes subject to rent control, and an owner can’t sell upside, it will need to sell returns, which will be limited by local ordinance.

If Proposition 10 passes, it remains to be seen if cities will immediately tighten their rent control ordinances. What has occurred and what will continue to play out in the weeks to come, is that Proposition 10 has become a lightning rod for housing rights advocates and investors.

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