



# Monthly Newsletter

August 2021

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## **California's eviction moratorium is currently set to expire on September 30 and a similar CDC eviction moratorium is unlawful according to the United States Supreme Court.**

The headlines about various eviction moratoria are very misleading these days. There is a California law, duly passed by the State legislature and signed by the Governor, that prohibits evictions for nonpayment of rent and this law is in place through at least September 30, 2021.

There is a separate executive order, not passed by Congress, and ostensibly justified by certain emergency powers granted to the Center for Disease Control (CDC) that similarly prohibits evictions for nonpayment of rent. However, the United States Supreme Court ruled on August 26 that President Biden overstepped the authority granted to the CDC and therefore the federal eviction moratorium is no longer in place.

The issue here is procedural. Congress may pass a law prohibiting evictions, and the executive may sign such a law. That is what has happened in California and it is lawful and will not be overturned by the courts. The executive, however, cannot unilaterally impose such a regulation without the express consent of Congress and that is what happened at the federal level and that is why the CDC moratorium is no longer in place.

There are still questions about whether the California law is a "taking" of private property by the government. If so, then the government owes "just compensation" to landlords for having "taken" their property during the pandemic. The likelihood of this being resolved anytime soon or in landlords' favor is slim. But it is still undecided.

The more pressing issue is that headlines about eviction moratoria are misleading because there are various moratoria out there. How they are passed and what they cover is different in ways that matter, and in ways that cannot be adequately captured in a headline.

All that said, at present we are starting to see some evictions get processed, but not for nonpayment issues. Only truly serious nonmonetary breaches of lease are cause for eviction in California right now.

## **California's legislature passed legislation preempting local ordinances that limit construction of new housing, but it is still waiting on signature from the Governor.**

The state Assembly passed a bill on August 26 that allows for more housing density in California.

This bill allows two units per parcel of land and further allows homeowners to subdivide their properties, creating up to four units on a single lot. These rules would preempt local zoning ordinances and apply to residential areas across California.

*Anthony Castaneda did a terrific job managing California West's Arroyo Grande branch when Betty had to go on leave for a couple months last year, and he has been managing our San Luis Obispo operations this past Summer.*

This is a continuation of a trend within Sacramento to pass legislation that prohibits local municipalities from preventing the construction of new housing in California. In 2019, the legislature adopted rules requiring municipalities to allow such things as garage conversions, without imposing lengthy reviews or outright prohibitions.

This is one way in which the legislature is attempting to address the rising homelessness problem in California and the continuing unaffordability of housing. The premise is that if there are more homes being built then the price of homes will not rise as quickly and there will be fewer people without a home. Frankly, this seems like a far better and more effective solution than imposing additional rent control or making evictions of bad tenants harder.

Governor Newsom has not yet signalled whether he will sign this proposed new law but he has in the past supported this sort of legislation.

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We are pleased to announce that Anthony Castaneda is now managing our San Luis Obispo office. Anthony has been with us for 5+ years, as an assistant to Betty Romero in our Arroyo Grande branch.

**Arroyo Grande Office**  
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Anthony did a terrific job managing the Arroyo Grande branch when Betty had to go on leave for a couple months last year, and he has been managing our San Luis Obispo operations this past Summer on a temporary basis as Rosa Vega has been out on leave. We are pleased with his performance and that role is now permanent for him.

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We are expecting Rosa to return in mid-September, at which time she will slide over to manage our Accounting Department. She will also be available to advise Anthony with her 20+ years of experience in the SLO office.