



Dear Clients and Friends:

Welcome to our eighth annual newsletter containing California legislative updates on Commercial Real Estate Law.

Please contact us if you have any comments or questions with which we can assist.

Regards,

***Norma***

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**2022 Legislative Changes Affecting California  
Commercial Real Property**

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This article offers an overview of some of the California laws impacting commercial real estate that became effective on January 1, 2022.

**Housing Affordability**

Legislation affecting multi-family and single family housing dominated the California real estate legislative landscape in 2021. Affordability legislation that directly affected commercial real estate included:

--Extension of the Housing Crisis Act of 2019 (“Act”)

Our 2020 and 2021 update articles reviewed the Act, which was designed to alleviate the State’s housing emergency. Among other things, the Act provided that once a preliminary application for a housing development project is filed, the project’s approval is not subject to later-enacted rules and standards, fee increases and other requirements. The Act also imposed time limitations on actions by the jurisdictions with

whom applications are filed. The Act expired on January 1, 2025. New legislation provides that:

1. the Act is extended until January 1, 2030 for preliminary housing development applications submitted between January 1, 2022 and January 1, 2030;
2. rights under a qualifying application submitted by January 1, 2030 can vest until January 1, 2034;
3. once the preliminary application is submitted, the project is not subject to ordinances, policies and standards adopted after that submission unless construction on the project has not commenced within 2-1/2 years (or 3-1/2 years for an affordable housing project); and
4. any “appeal” on a housing development application counts as one of the five maximum “hearings” permitted by the Act once a housing development application is deemed to be complete.

### --Ten Unit Upzoning

Prior to January 1, 2029, local governments, with certain exceptions, may pass ordinances to zone any parcel for up to ten (10) residential units if the parcels are located in transit rich areas or urban infill sites. The ordinances cannot reduce the density on a parcel at the time of enactment and density on the parcel cannot subsequently be reduced. The enactment of the ordinances is exempt from review under the California Environmental Quality Act (“CEQA”). However, subsequent discretionary approvals under the ordinances (e.g. to build units on the parcels) are subject to CEQA.

### --Density Bonus Law

Our 2021 developments article looked at 2020 legislation that amended the state’s density bonus law, the tool most commonly used to increase housing production and density. The law allows the development of more total units in exchange for reserving a certain number of units as affordable. “Benefits” include density bonuses, waivers of development standards, incentives and reduced parking standards. Density was again addressed in 2021 legislation by, among other things:

1. allowing a broader range of housing developments to take advantage of benefits previously available only to for-sale common interest developments;
2. granting more advantageous parking ratios to developments that meet certain affordability requirements if those developments are located within a half mile of a major transit stop accessible to residents;
3. allowing increased benefits for student housing developments with at least 20% of units for lower income students; and
4. allowing a unit satisfying the inclusionary zoning requirements of a jurisdiction to be included in the calculation of the total number of units eligible for a development’s benefits.

The legislature also passed significant legislation affecting the affordability of single family residences. Readers interested in housing affordability may wish to look into those laws.

## **Commercial Eviction Moratoria**

The statewide moratorium on commercial real estate evictions expired on September 30, 2021. Individual California cities and counties may have eviction protections governing commercial and/or residential property within their jurisdictions.

## **Food Recovery Program-Tier One Food Distributors**

In 2016, California passed SB 1383, designed to reduce organic waste disposal and the disposal of surplus food that people could otherwise eat. Starting January 1, 2022, Tier One commercial edible food generators (including supermarkets, food service providers to institutions and others) must enter into contracts with food recovery organizations and services to collect and distribute the maximum amount of edible food that would otherwise be disposed of. Effective January 1, 2024, the same requirement is imposed on Tier Two edible food generators which include hotels, restaurants, entertainment venues and health facilities, all of certain sizes. The food recovery organizations distribute the edible food to the public through entities including food banks, non-profit food facilities and other organizations. Beginning January 1, 2024, cities and counties may inspect food generators and food recovery organizations and issue violations to enforce the law.

## **Gender Neutral Retail**

Effective January 1, 2024, retail stores located in California that have 500 or more California employees and sell childcare items or toys must maintain a gender neutral area. The area can be labeled at the discretion of the retailer and must display a reasonable number of items that the store sells, regardless of whether the items have traditionally been marketed for either girls or boys. Failure to comply with this law may result in a penalty of \$250 for a first violation and \$500 for each subsequent violation.

## **Extension of Time to Transfer Base Year Value**

The California Constitution provides that the property tax base year value of property that is substantially damaged or destroyed by a declared disaster may be transferred to a comparable replacement property in the same county within five years after the disaster. New California legislation provides for a two year extension of the five year period for properties substantially damaged or destroyed on or between March 4, 2020 and March 4, 2022. For properties for whom the five year period expired between March 4, 2020 and March 4, 2022, the new law would extend the five year period for an additional two years.

regarded as legal advice for specific situations.

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