



Quality Housing • Ethics • Professionalism



January 7, 2014

The Honorable Tom Ammiano
California State Assembly
State Capitol, Room 3146
Sacramento, CA 95814

RE: AB 969 (Ammiano) – Jury Trials – As Amended January 6, 2014

Dear Assembly Member Ammiano:

On behalf of the members of the California Apartment Association, I am writing to inform you that notwithstanding the January 6, 2014, amendments to the bill, the association will continue to oppose AB 969, legislation that adds the term “jury” to the “warranty of habitability” statute and allows a tenant to withhold the payment of rent while simultaneously claiming retaliation by the landlord.

AB 969 provides tenants a very simple roadmap to delay eviction for the non-payment of rent. It allows tenants who have not paid the rent and face eviction, to claim a “retaliatory eviction” and also request a jury trial. By doing so, a tenant is able to delay the eviction process and live rent free for at least 6 months.

AB 969 is a concern for the association for a number of reasons:

Tenants Can Withhold Rent Payments by Claiming Retaliation– Language within AB 969 (page 3, line 22) allows a tenant to withhold the payment of rent and claim the landlord has retaliated against him/her simply by claiming it was because they joined a tenant’s organization. While a tenant has the right to claim retaliation by the landlord in this case, the tenant cannot, under this existing statute, withhold rent payments. By simply adding the words “Notwithstanding subdivision (a)” – which is the requirement for the tenant to pay the rent –AB 969 eliminates that requirement.

Encourages Jury Trials - Under some current statutes, a tenant has the right to request a jury trial. The current judicial council forms used by most courts include a check box for the parties to request a jury trial. A jury trial is very uncommon in the eviction process and is mainly used as a delay tactic by unscrupulous attorneys to prolong the already lengthy eviction process and to improve their client’s bargaining position. Adding the word “jury” to the provisions of the statute, will encourage the use of jury trials where none exist today.

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Page 2

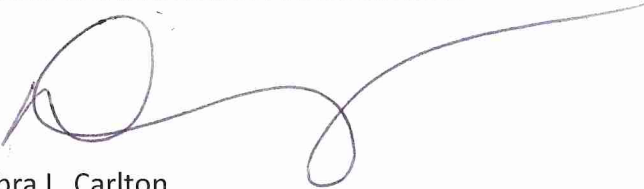
Jury Trials are Expensive – While some courts have jury trials for landlord-tenant cases, it is uncommon in many areas. AB 969 highlights the use of jury trials, encourages them, and will burden our judicial system and add considerable costs to the courts. Adding the word “jury” throughout this section implies that a jury trial is a normal course of action – if not a necessity – in these types of cases, when, in fact, eviction cases are intended to be an expedited process. It will add to the current court backlog and financial challenges they face. While a jury trial may be a landlord and tenant’s right in certain circumstances, encouraging more jury trials in all eviction cases throughout the state, will add months of delay and costs to the courts.

Lengthens the Eviction Process – Currently, in California, the eviction process for non-payment of rent takes - on average - 90 days in contested cases. This bill will add a minimum of another 60-90 days to that lengthy process. Requesting a jury trial is one of the easiest tactics for a tenant to live “rent free.” If this bill becomes law, a rental property owner would not receive a single dollar in rent for 6 months, while at the same time, paying thousands of dollars in legal fees.

The California Apartment Association is the largest statewide rental housing trade association in the country, representing owners and managers who are responsible for over 2 million rental units throughout the State of California. Thank you for your consideration.

Respectfully,

CALIFORNIA APARTMENT ASSOCIATION

By 

Debra L. Carlton
Senior Vice President Public Affairs

cc: Assembly Judiciary Committee