

TOPA harms tenants!

TOPA developers and special interests created a loophole in the TOPA legislation to exempt themselves from local rent control so they can raise higher rent on tenants. They also exempted themselves from 'Good or Just Cause' so tenants lose eviction protections (see TOPA legislation reference below).

TOPA allows a drastic 50% rent increase on tenants in just 5 years!

TOPA Example: \$1,000 rent/month --> \$1,539 rent/month (a 53% rent increase)				
TOPA 7% capital improvement loophole + ~ 2% AGA = ~ 9% rent increase, compounded annually				
\$ rent/month	Year	TOPA 7% capital improvement	~ 2% AGA *	\$ increase
1,000	start	0.07	0.02	90
1,090	year 1	0.07	0.02	98
1,188	year 2	0.07	0.02	107
1,295	year 3	0.07	0.02	117
1,412	year 4	0.07	0.02	127
1,539	year 5	0.07	0.02	138
* AGA = Annual General Adjustment (65% of CPI)				
\$1,000 rent/month --> \$1,403 rent/month				
TOPA 7% capital improvement loophole				
\$ rent/month	5 years	7% capital improvement	~ 2% AGA *	\$ increase
1,000	start	0.07		70
1,070	year 1	0.07		75
1,145	year 2	0.07		80
1,225	year 3	0.07		86
1,311	year 4	0.07		92
1,403	year 5	0.07		98

Berkeley's recent Annual General Adjustment (AGA) is around 2%.

2005: 0.9%*	2013: 1.7%*
2006: 0.7%*	2014: 1.7%*
2007: 2.6%*	2015: 2.0%*
2008: 2.2%*	2016: 1.5%*
2009: 2.7%*	2017: 1.8%*
2010: 0.1%*	2018: 2.3%*
2011: 0.7%*	2019: 2.5%
2012: 1.6%*	2020: 2.1%

Teams of lawyers worked on the TOPA legislation for years and carefully hid these TOPA loopholes that harm tenants. This TOPA legislation was proposed on 1/27/2022 to the Berkeley city council.

Under TOPA, **Tenants LOSE Eviction Protections**. TOPA developers **EXEMPT** themselves from the Rent Stabilization and Eviction for Good Cause Ordinance (Chapter 13.76). TOPA developers remove tenant protections and mislead the public by cloaking themselves as “non-profits” and “Tenant Organizations”. Why would a “Tenant Organization” drastically raise rent on tenants and cause tenants to lose eviction protections?

TOPA Ordinance (Proposed 1/27/22)

Chapter 13.89.180

income restrictions or other eligibility requirements imposed by this Section. If the sale of the Rental Property under this Chapter to a Tenant Organization results in the exemption of any Rental Unit from the requirements of Chapter 13.76, the Tenant Organization and any subsequent Owner of the Rental Property shall, unless and to the extent prohibited by state law, limit the increase in rent for any such Rental Unit to 65% of the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U) in the San Francisco-Oakland-San Jose region as reported and published by the U.S. Department of Labor, Bureau of Labor Statistics, for the twelve month period ending the previous June 30; provided, however, the Owner may further increase the rent for any such Rental Unit to cover the cost or planned cost of a reasonable, pro rata share of capital improvements for common areas and of any other capital improvements that are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, where such capital improvement costs are properly amortized over the life of the improvement. In no event, however, shall the allowable annual for common areas and of any other capital improvements that are necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, where such capital improvement costs are properly amortized over the life of the improvement. In no event, however, shall the allowable annual adjustment be less than zero (0%) or greater than seven percent (7%).

TOPA developers exempted from 'Just Cause'

Chapter 13.76 - tenant eviction protections

Rent Stabilization and Eviction for Good Cause Ordinance Sections:

- [13.76.010 Title.](#)
- [13.76.020 Findings.](#)
- [13.76.030 Purpose.](#)
- [13.76.040 Definitions.](#)
- [13.76.050 Applicability.](#)
- [13.76.060 Rent Stabilization Board](#)
- [13.76.070 Security deposits.](#)
- [13.76.080 Rent registration.](#)
- [13.76.090 Use and confidentiality of information submitted to Board.](#)
- [13.76.100 Establishment of base rent ceiling and posting.](#)
- [13.76.110 Annual general adjustment of rent ceilings.](#)
- [13.76.120 Individual adjustments of rent ceilings.](#)
- [13.76.130 Good cause required for eviction.](#)
- [13.76.140 Retaliation prohibited.](#)
- [13.76.150 Remedies.](#)
- [13.76.160 Partial invalidity.](#)
- [13.76.170 Nonwaiverability.](#)
- [13.76.180 Judicial review.](#)
- [13.76.190 Criminal penalties.](#)

**TOPA capital improvement loophole to Raise Rent on tenants
(7% capital improvement + 65% of CPI, compounded annually)**