



THE PRESIDENT'S MESSAGE

Small property owners are once again forced to bear the financial burden

By Noni Richen, SPOSFI/SPOSFI President

Not since WWII have we experienced such a global sense of mass shock and dread as we are experiencing today. But we're tough, and already are fighting back against the pandemic. I sincerely hope that each of you is well and safe.

As we hunker down for the long-term battle to stay healthy, keep our families healthy, and keep our renters decently housed, housing providers are being bombarded with more harmful and nonsensical legisla-

“Housing providers are being bombarded with more harmful and nonsensical legislation rather than legislation designed to help us survive these difficult times.”

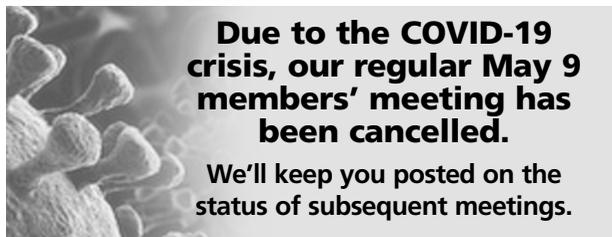
tion rather than legislation designed to help us survive these difficult times. Much of the political rhetoric surrounding the proposals talks about evictions—preventing and prohibiting them. In the past few weeks we've asked for your thoughts about

running a small rental business in this difficult climate. It's very noteworthy that *none* of the letters mentioned the E-word. The very first letter we received was from a member who wants to lower his renters' rent while they cannot work, but asked if he could do so temporarily, or would the reduced rent become permanent? (See page 6 for a full explanation.) In fact, several members asked variations of this same question: "Can we be decently accommodating to our renters without being permanently whacked down by the bureaucratic burdens of already-existing laws." Why would we want to evict our good, cooperative renters and face finding new renters after this crisis abates?

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Due to the COVID-19 crisis, our regular May 9 members' meeting has been cancelled.

We'll keep you posted on the status of subsequent meetings.

Assemblyman Ting unveils bill to prevent evictions by reducing rents 25%

By Brian Wallace, SPOSFI member

Just when you thought COVID-19 eviction protections couldn't get any more complicated or confusing comes AB 828. The bill's goal, according to author Assemblyman Phil Ting, is "to help those struggling to make ends meet, by imposing a moratorium on evictions of renters whose incomes have been diminished due to the coronavirus."

AB 828 further defines the existing moratorium period and provides a framework for repayment of past-due monies. The bills provisions include:

- No evictions during the declared state of emergency related to COVID-19, plus 15 days thereafter.
- Courts can set up a repayment plan for monies owed and allow residents to remain in the residence.
- Payment recovery period may go through March 2021 if economic hardship due to the coronavirus can be proven.

Conspicuously absent from these bullet points is the most alarming provision of the bill for owners of rental property in California. If the court determines "the tenant's inability to stay current on the rent is the result of increased costs in household necessities or decreased household earnings attributable to COVID-19,"

“Conspicuously absent from these bullet points is the most alarming provision of the bill for owners of rental property in California.”

AB 828 requires the court "to make an order for the renter to remain in possession, to reduce the rent for the property by 25% for the next year, and to require the renter to make monthly payments to the landlord beginning in the next calendar month in accordance with certain terms." Once again, we see words like

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The answer is emphatically, **we don't!** Small property owners are in the business of providing housing, not denying it to good people facing hard times.

AB 828: truly misguided legislation

Assemblyman Phil Ting, author of AB 828 (see page 1) and candidate for reelection in November, is willing to place a huge financial burden on housing providers who must meet their mortgage, property tax, insurance, and other obligations without receiving the rental income on which they depend. Similarly, at the local level D-5 Supervisor Dean Preston seeks to make permanent—forever—the restrictions on evictions for non-payment of rent that the Governor imposed on a strictly temporary basis. Preston and his minions aren't interested in hearing from small property owners or considering their concerns; apparently, we're the enemy. I once asked him, at a small event we both attended, if we might have coffee and discuss San Francisco rental matters. "NO, there's no point in our talking to each other," was his curt reply.

Small property owners are in the business of providing housing, not denying it to good people facing hard times."

May members' meeting cancelled

Unfortunately, we are unable to hold our regular public meeting in May, possibly beyond. We recently sent checks to our own landlord (St. Mary's Cathedral) for the conference room for our March, April, and May meetings. They have very generously applied those

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checks to future meetings. We appreciate the gesture.

Despite the current situation, we continue carrying on the business of advocating for San Francisco's small property owners. Each week, we teleconference with our state group, CalRHA. We discuss with our colleagues and lobbyists how we can work together to create a more equitable environment for housing providers. They asked for, and we provided, some real-life statements from small property owners—your

answers to our May Question of the Month—to present to various key political figures in Sacramento. SPOSFI members define the small "mom-and-pop" owners with whom politicians often express empathy, but then do nothing to help.

Legal Panel goes online for now

We do plan to continue holding sessions like our popular Legal Panel that we held on our regular meeting date in April. You can watch them, but only if we have your e-mail address so we can send you the link to watch. If you haven't yet done so, please do send us your e-mail address at info@smallprop.org.

Thank you all. Stay tough! 🏠

April 10 property tax deadline moved to May 4

More than 500 property owners in San Francisco signed a petition led by D-7 supervisorial candidate and columnist **Joel Engardio** asking the governor, state and local legislators, and the county treasurer to defer the April 10 property tax payment deadline. Thankfully, the appeal was successful.

San Francisco property owners now have until May 4 to pay their property taxes. San Francisco County Treasurer José Cisneros posted the official statement on April 3. "It's not a full win because July would be better, and most of the state still has to pay property taxes by April 10. But it will bring significant relief to San Francisco families, and we'll take it," said Engardio.

City Hall, including the Tax Collector's Office, is closed to the public until at least May 4, the day San Francisco's Shelter In Place Order is set to expire. If you can't pay your property tax that date, you will have to submit a **penalty waiver request**. Note that it still requires documentation, and you will accrue additional penalties and interest if the penalty waiver request is denied. 🏠



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SF real estate market hard hit by COVID-19, but there's cause for optimism

By Terrence Jones, SPOSF/SPOSFI Board & Business Member

We are in uncharted waters today as I write on this, the thirty-seventh day of the city's Shelter-in-Place (SIP) Order. Since it took effect, we've seen a significant change in the market, and as real estate professionals, we've had to adapt.

In San Francisco, we are now allowed to show only vacant or owner-occupied units without the owner in the unit. For a new listing of three units I have, that means starting by showing a buyer the owner-occupied unit without the owner present, in this case to two people from the same household, the

maximum now allowed. I wore my N95 mask and gloves, as did the buyers. For the occupied units, the buyer will review photos and the Offering Memorandum online, "subject to" viewing the occupied units post-SIP.

For another co-listing I have, a vacant single-family home, we created a virtual tour, allowing buyers to view it by moving from room to room on their computer. We're showing the property in person only to buyers with pre-qualified loans and who first have done the virtual tour. As expected, we've seen new listings drip off a cliff in the past 30 days, and completed sales trickling in slowly.

In the San Francisco 2-4-unit building market, we've seen substantially lower sales volume as well. The first 15 days of April saw only seven closed sales, compared to 14, 17, and 16 during the same period of 2019, 2018, and 2017, respectively—about a 50% drop based on this limited data sample. As for sales price, some properties are closing above list price and some below. We'll have a better picture after the SIP Order is lifted and buyers start making offers again.

Many in-escrow deals renegotiated

Most real estate deals that were in escrow prior to the SIP Order have been renegotiated to a lower price—even some with all contingencies removed. Some are in limbo until appraisers and inspectors for buyers can get back in to inspect the buildings in contract. The renegotiation figures range from 1.5% to as high as 10%, depending on the quality of the property.

Low number of rent defaults in April

Tenants are faced with job furloughs and layoffs, and some, with little or no savings and now no jobs find themselves unable to pay the rent. Based on reports from various sources, it appears that 5-10% of renters

have not paid their April rent. This figure is expected to go up only slightly in May.

The three D's of real estate, and now a fourth

It used to be that in up and down markets we always saw a base level of "DDD sales," sales due to **death, divorce, or dissolution of partnerships**. Death meant the taxman had to be paid. Divorce meant alimony payments to your ex-spouse and a split of community property. Dissolution of partnership meant your dirty cheating ex-business partner had to be extracted from your life. In each case, the seller was motivated to make a deal at the market price. Today, we have to add a fourth D: **Disease**, where people are forced to sell due to COVID-19.

The lending picture

Although not public knowledge, many banks are not issuing loans to new clients, overwhelmed by the volume of refinances and servicing of their existing clients. If you're looking to refinance or buy a building, go with the bank you worked with in the past. There will also be some properties that come to market with good assumable financing or owner financing, and those will likely garner a premium in today's market.

The value of vacancy

There's a new paradigm around vacant units. A vacant unit or building is the most valuable if you are selling to an owner-occupier or a TIC developer. However, if you want to sell to an investor, that investor may need tenants in place to qualify for loans. We'll have to navigate this situation with care moving forward.

The future of San Francisco's real estate market

In my opinion, we'll come out of this crisis stronger and faster than markets like Boston, New York, and New Orleans that have been hit harder by COVID-19. We've been fortunate in our flattening the infection curve and keeping mortality way down due to quick and decisive action at both state and local levels.

According to a retired SF Health Department epidemiologist with whom I recently spoke, we're in a new world until there is a vaccine and mass testing. When things get better, San Francisco will continue to hold its appeal for young tech companies and young well-paid workers, who will rent units and buy homes in our severely supply-constrained market. San Francisco will continue to have refreshing air flowing in from the Pacific and be surrounded by great food and entertainment when the SIP Order is lifted. I have a growing book of people interested in buying in the city. We may see a 5-10% drop in prices from the pre-SIP days, but I remain optimistic about our future. 🏡

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“Based on reports from various sources, it appears that 5-10% of renters have not paid their April rent. This figure is expected to go up only slightly in May.”



QUESTION OF THE MONTH:

🔍 My tenant was laid off without pay. I've temporarily reduced the rent by \$250 per month.

—Howard Epstein

🔍 One of my tenants runs a childcare business from the home she is renting from us. Her operation is shut down during the Shelter in Place Order, so her income is severely reduced. We're setting up a payment plan with her so she can pay us two-thirds of her rent for the next three months, and she'll tag on extra to her normal rent for the nine months after that. Presumably, the Order will have been lifted by then. We hope she can stay healthy now and be less stressed. We all need to help each other pull through in this time of need.

—C. Steven Huang

🔍 My tenant with rent closest to market value in my 3-unit building moved out on April 1. The unit has been thoroughly cleaned and ready for a new tenant. However, I can't go there myself since I am in the vulnerable age group, and can't show it nor return the security deposit until I can do the inspection myself. With one vacant unit, my rental income, which is what I live on, will be greatly reduced until it's safe to show the unit again. Luckily, I have wonderful tenants who are cooperative and understanding of these strange times.

—Tess Being

🔍 My tenant of seven years has continued to make his monthly rent payment without fail. It reminds me of how important the basics are in a rental relationship, and reinforces my gratitude that he has the means and the good will to continue paying even under difficult circumstances.

—Terry Nedilov

🔍 We only rent one condo in San Francisco. We're fortunate not to have a mortgage over our heads and to have a tenant that remains employed. Being proactive, I initiated dialogue with the tenant in mid-March to see if any special rental relief arrangement might be needed. We know the situation could change, so we are prepared to provide rent relief as needed. Communication and trust are very important, and I prioritize both with our tenants. As a result, there is mutual respect.

—Name withheld by request

How is the COVID-19 pandemic affecting you as a rental property owner?

🔍 This crisis is affecting everyone in the world, so I am trying to work with my tenants who have lost their income. I've volunteered to lower rents by 25% for anyone on unemployment and work out a payment plan for any shortages. That said, the eviction moratorium is affecting me adversely. Tenants in one house were three months behind on their rent *before* the crisis. With \$12,000 past due, they had until March 15 to square up with me. That never happened. They were friends so I let it slide for several months, but now with no evictions likely until at least fall and no April rent I feel very much taken advantage of. Eventually, they'll either pay or leave, owing me the rent for the entire year until I can regain possession. They were friends paying less than half of market rent. I learned a huge lesson: DO NOT rent to friends, and DO serve a 3-Day Notice right away if rent is past due. In this instance, being a "nice guy" has backfired hard on me.

—Jim Siegel

🔍 Right now everything is fine. We are keeping the maintenance up and keeping all tenants informed along the way. I am a little concerned about all the things I hear regarding our elective representatives wanting landlords to forfeit rent, yet there is no help being offered for rental property owners. Is there a 25% reduction in your water bill? Is there a 25% reduction in your property taxes? Are they going out and testing every homeless person, going in to test everyone at every Seniors' Home? Who are these 17 people who have died in SF? We don't really know. Long story short, it's beginning to smell political!

—Richard Modolo

🔍 One entire commercial building I own is not paying rent. The tenants are asking for vastly reduced rents, but I'm asking for financials first, something other owners of commercial properties seem to be doing as well. The one tenant that I know for sure has been hit hard by the pandemic wants to stay, but probably can't wait out a year for her business to start back up.

How do I know if there will be a market if my building is vacated? One of my residential tenancies with five adults has stopped paying rent. Another tenant has fled back to his home country, and despite the 20% drop in rent, response from new prospective tenants has been tepid. Several parties were "very inter-

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Unintended consequences of Rent Control

Housing development, rehabilitation, and property maintenance generate significant economic benefits in terms of job creation and wage growth, and overall economic value to local and state economies. Rent control policies eliminate most of this benefit as development, renovation, and rehabilitation of rental housing activity are significantly reduced or eliminated. 📌

Cont'd from pg. 4: QUESTION OF THE MONTH

ested," but no applications. Normally, I'd have competition within days of putting the unit on the market.

—Katharine Beckwith

📌 One tenant inquired about what we offered: postponement of a third of monthly rent for three months, to be forgiven in months 13, 14, and 15 forward. If they stayed a year, the postponement would be forgiven. Out of twelve tenants, just one gave notice. 📌

—Harold M. Hoogasian

Cont'd from pg. 1: AB 828

"increased costs in household necessities" and "decreased household earnings" but no mention of a renter's savings, 401(k), IRA, or investment portfolio.

As it is now, renters in San Francisco are protected from eviction by both Mayor Breed's Eviction Moratorium and Governor Newsom's Executive Order. While each has its own set of stipulations, they both allow renters and property owners to work things out on their own. AB 828, however, takes it much further, giving a court the power to order you, the property owner, to decrease your renter's rent up to 25% and accept the court-approved reimbursement plan.

While the other eviction moratoria are vague on what constitutes "financial hardship," Assemblyman Ting's office assures us that "AB 828 does require proof of economic hardship **if after the moratorium is lifted** the renter wishes to enter into a plan to pay back any past due rent, at which point he/she may enter into a payment plan during which the rent is reduced by 25% [for 12 months] while the debt is repaid in 10% increments. The renter is only eligible for a payment plan if it does not place an economic hardship on the landlord." When was the last time anyone in City Hall or Sacramento worried about the "economic hardship on the landlord"?

Is AB 828 even legal?

"AB 828 violates both the State and Federal Constitutions and, in the process places a tremendous burden on property owners, some of whom recently purchased their property and have exceedingly high expenses and

others who have already been under rent control for decades and don't even receive enough in rent to maintain their properties," states The San Mateo County Association of Realtors. The California Apartment Association says, "AB 828 further denies equal justice to housing providers by allowing the courts to set rents and change rental agreements already in place. Ting's proposal ignores the robust rent and eviction controls already in place across California and provides no assurance that landlords can collect rent, remove problem tenants, or get a fair hearing in the court system."

Goodbye unlawful detainer actions

Right now, property owners must follow a detailed procedure, an **unlawful detainer action**, in order to evict a renter. Existing law provides that a renter is subject to such an action if he/she continues to possess the property without the owner's permission; for example, if a renter violates the lease by defaulting on rent or failing to perform a duty under the lease. AB 828 would "prohibit a state court, county sheriff, or party to a residential unlawful detainer case from accepting for filing, or taking any further action including executing a writ of possession or otherwise proceeding with an unlawful detainer action during the timeframe in which the state of emergency is in effect and 15 days thereafter." The bill also protects nuisance tenants by not requiring them to respond to unlawful detainer actions.

AB 828 and the law of unintended consequences

Besides its obvious flaws, AB 828, intended to help renters with the financial stress caused by the pandemic, will create even more economic distress for tens of thousands of small rental property owners who, like many renters, are already under immense financial pressure. "Once again, small property owners are being asked to bear the economic burden of a well-intended but painfully misguided legislation placed upon them... AB 828 would virtually eliminate any incentive for renters who need COVID-19-related financial assistance to work cooperatively with their housing providers on a rent reduction and/or repayment plan. Rental property owners do not want vacancies, especially during times of economic uncertainty. Rental housing providers pump hundreds of billions of dollars into the California economy annually; this is a time to encourage them to continue their operations, not stifle them," said California Rental Housing Association (CaRHA) President Sid Lakireddy.

The California State Legislature hopes to return to session on May 4. Because it has not been in session, lawmakers in Sacramento do not yet know the level of support for AB 828. 📌

“The renter is only eligible for a payment plan if it does not place an economic hardship on the landlord.”
When was the last time anyone in City Hall or Sacramento worried about the ‘economic hardship on the landlord?’”

Yes, you can lower the rent temporarily due to COVID-19 without it becoming permanent

Owners of rent-controlled properties can lower rents, then increase them to previous levels later, such as when the COVID-19 pandemic has subsided and tenants can once again afford their original rates, according to city officials.

This offers one way for landlords and tenants to potentially weather the current crisis.

The San Francisco Rent Board, which enforces

the city's Rent Ordinance, recently published a statement in response to repeated requests from landlords about whether they could legally do this, said Robert Collins, the board's executive director. He added that he was pleasantly surprised (but shouldn't have been). "I didn't think that landlords would be lowering

the rent this early on." This option has been available for some time to landlords, he noted, but has become newly relevant due to the pandemic.

Noni Richen, president of Small Property Owners of San Francisco Institute, said she had fielded such an inquiry to the Rent Board from a landlord concerned about being permanently locked into the lower rate.

"This email I got is from an owner who felt bad for his tenants," Richen said. "He wanted to know if he could lower their rent during this period. But he really didn't want to get into a situation where, when things go back to normal, he couldn't raise it back up." She said that, at the time, she was unsure whether this would be the case.

Conditions for temporary rent reduction

A new web page on the Rent Board's website, published March 30, clarifies that if a reduction in rent is due to "financial hardship specific to the tenant," the landlord can restore the rent to the previous level later. But if the reduction were "due to market conditions," the reduced rent would be permanent. Landlords and tenants should put these agreements in writing, Collins added. 

Mayor Breed: please clarify your Rent Deferral Order

This is an abridged version of the letter. The full letter as well as the Mayor's Order are available on our website, www.smallprop.org

In a formal letter dated April 2, 2020, SFAA, Coalition For Better Housing (CBH), and SPOSF have asked Mayor Breed to clarify her Proclamation Declaring the Existence of a Local Emergency of February 25, 2020 and amended March 23.

Section 2 of the Order imposes "a moratorium on attempts to recover possession of rental units." This provision applies to "notices of termination of tenancy," but is unclear as to whether it is also includes **3-Day Notices to Cure or Quit** that are necessary to implement a tenant's invoking the right to deferral of rent. A 3-Day Notice and access to judicial process are also necessary to create and execute enforceable agreements to defer rental payments under California law, which is the intent of the Order.

Without the ability to serve a 3-Day Notice as part of a secured rent forbearance agreement, housing providers

face the prospect of extended delay in enforcing the agreements far beyond the time periods contemplated by the Order. Without clarification confirming the right of housing providers to serve a 3-Day Notice, the court system will be overwhelmed by new filings upon expiration of the Order and unavoidable

delays in processing cases, followed by large-scale foreclosures and other severe hardships, especially for the city's thousands of small property owners.

The letter asked for a simple clarification that the Order's language does not bar service of a 3-Day Notice to Cure or Quit and filing of an unlawful detainer as long as they are used to secure an agreement to defer rent in accord with the Order, and confirmation that the moratorium does NOT include any action necessary to effectuate and enforce an agreement to defer or forbear rent payments pursuant to the Order.

The letter stressed that these organizations support the substance of the Order and its intent, but have serious legal concerns about any effort to bar access to the judicial process. Section (1)(g) can reasonably be read to prohibit even filing a lawsuit, an act that does not equate to evicting a tenant. It is far from certain that a mayor can impose sweeping limits on the basic right of a citizen—or a landlord—to access the court system.

At press time, we have received no response from the Mayor's Office. 

“If a reduction is due to ‘financial hardship specific to the tenant,’ the landlord can restore the rent to the previous level. But if the reduction is ‘due to market conditions,’ the reduced rent would be permanent.”

“Without the ability to serve a 3-Day Notice . . . housing providers face the prospect of extended delay in enforcing the agreements far beyond the time periods contemplated by the Order.”

RESOURCES GUIDE

THE FOLLOWING BUSINESSES SUPPORT SPOFSI and have joined at the **Business Member Level**. For a full listing, with complete contact information, please visit our website at:

www.smallprop.org/resources/guide/

When selecting service providers from this list, always exercise good judgment to ensure that they meet your specific needs. **SPOFSI makes no claims or warranties of any kind**, and provides these service listings for your convenience only.

All phone numbers are **(415)** area code unless noted otherwise.



APPLICATIONS, PAYMENTS, TENANT SCREENING

- **Patricia A. Harris, Apartment Owners Association of California (AOA)** (818) 988-9200

ARCHITECTS

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Rachel Malchow Architect Inc. 710-9093

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- **Andrew M. Zacks (中文服務)**
Zacks, Freedman & Patterson, PC 956-8100
- **Paul F. Utrecht, Utrecht & Lenvin LLP** 357-0600
- **Daniel Bornstein, Bornstein Law** 409-7611
- **Nicholas Goldman, Nicholas Goldman Law** 350-8740
- **Denise A. Leadbetter**
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- **Sean E. Makarin**
Law Offices of Parsley & Makarin 777-1800
- **Steven Adair MacDonald**
Steven Adair MacDonald & Partners, P.C. 956-6488
- **Leonard P. Mastromonaco**
Mastromonaco Real Property Law Group 956-4030
- **Karen Y. Uchiyama**
Law Offices of Karen Y. Uchiyama 563-9300

ATTORNEYS: ESTATE PLANNING, WILLS & TRUSTS

- **Ron Chun, Attorney & CPA** 977-1300
- **John O'Grady, O'Grady Law Group** 986-8500

DISPUTE RESOLUTION

- **Arbitration Chambers** 293-8099

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- **J. Wavro, J. Wavro Associates (中文服務)** 509-3456

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- **CultureLite Printing (中文服務)** 362-3893

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- **Eric & Christian Alexanderson**
Alexanderson Properties 285-3737
- **Michael Langley, Paul Langley Co.** 431-9104 x301
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REAL ESTATE AGENTS

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- **Allison Chappelle, Vanguard Properties** 516-0648
- **Gavin Coombs, Compass Commercial** 509-4782
- **Terrence Jones, Corcoran Global Commercial** 786-2216
- **Mike Miller, Coldwell Banker** 740-2564
- **Lee Ann Monfredini, Compass Real Estate** 722-4840
- **Laura Pallin, Vanguard Properties** 715-7918
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- **Pota Perimenis, Compass Real Estate** 407-2595

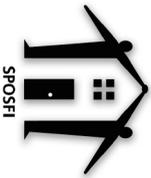
- **Tina C. Wong**
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RECYCLING & WASTE DISPOSAL SERVICES

- **Recology** 330-1300

2020 SF RENT BOARD NUMBERS:

Maximum allowable rent increase: **1.8%** Interest on security deposits: **2.2%** Annual tenant Rent Board fee: **\$25.00**
Effective March 1, 2020 → February 28, 2021



**Small Property Owners
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www.smallprop.org
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**DUE TO THE ONGOING
PUBLIC HEALTH CRISIS,
OUR MAY 9 MEMBERS'
MEETING HAS BEEN
CANCELLED.**

Published monthly except August and December. SPOSF members can also download the newsletter from our website. The next four members' meetings are scheduled for:

- **Tuesday, June 9**
- **Tuesday, July 14**
- **Tuesday, September 8**
- **Tuesday, October 13**

**YES. I WANT TO JOIN
THE FIGHT TO PRESERVE
THE RIGHTS OF SMALL
PROPERTY OWNERS**

Please complete all information below, tear off form and mail with your check payable to:
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MAY 2020
SPOSF:
Standing up for
the rights of small
property owners
through advocacy
and education

Name: _____ Phone: _____ E-mail: _____

Mailing address: _____ City: _____ State: _____ Zip: _____

Employer: _____ Occupation: _____ Self-employed Retired

How many units do you own? _____ In which Supervisorial District (1-11) do you reside? _____ OK to share your e-mail with NAA?

Sign me up as: **\$100-Regular member** **\$150-Supporter** **\$200-Sponsor** **\$400-Business member** (includes listing in Resource Guide)

same address). Enclosed is my contribution of: \$50 other: _____

PLEASE NOTE: While SPOSF membership dues are tax-deductible as a charitable contribution to the extent allowed by law, donations to SPOSF are not tax-deductible as charitable contributions.