DOCKETED	
Docket Number:	24-BPS-01
Project Title:	Building Energy Performance Strategy Report
TN #:	272111
Document Title:	Strategic Actions for a Just Economy Comments - California Energy Commission's Draft California Building Energy Performance Strategy Report, SB 48 Implementation Report
Description:	N/A
Filer:	System
Organization:	Strategic Actions for a Just Economy
Submitter Role:	Public
Submission Date:	8/21/2026 10:54:35 AM
Docketed Date:	8/21/2026

Comment Received From: Strategic Actions for a Just Economy
Submitted On: 8/21/2026
Docket Number: 24-BPS-01

California Energy Commissionâ€™s Draft California Building Energy Performance Strategy Report, SB 48 Implementation Report

Please see attached.

Additional submitted attachment is included below.

August 3, 2026
Chelsea Kirk, SAJE

Re: California Energy Commission's Draft California Building Energy Performance Strategy Report, SB 48 Implementation Report

Strategic Actions for a Just Economy appreciates the opportunity to provide comments on the California Energy Commission's Draft California Building Energy Performance Strategy Report. We recognize that the report reflects many of the concerns raised by tenant and EJ advocates regarding SB 48, particularly around the risks that building decarbonization policies pose for low-income renters.

However, while the report accurately summarizes many of these concerns, it often stops short of acknowledging the urgency of addressing them or recommending the policy changes necessary to prevent displacement. California's forthcoming BPS policy cannot succeed if it accelerates the loss of affordable housing or exacerbates our housing and homelessness crises. The implementation of SB 48 must be accompanied by meaningful tenant protections and enforceable safeguards against displacement.

Below are our comments on specific sections of the draft report.

Metrics

The report deserves credit for recognizing "building occupant impacts" as one of the three categories of metrics that could inform a Building Performance Standard. This represents an important conceptual advancement because building performance policies have historically focused almost exclusively on owners and building systems rather than the people who live in these buildings.

However, despite acknowledging that energy and environmental metrics can produce unintended consequences for occupants–including higher housing costs and displacement–the report ultimately declines to include occupant impacts as part of the recommended BPS framework. This is a missed opportunity. If occupant impacts are important enough to evaluate, they should also inform the design of the standard itself. A statewide BPS should measure success not only by emissions reductions and energy performance, but also by whether the standard is making homes more comfortable, affordable, and climate-resilient for the people who live in them.

The "Split Incentive" Framework

The report states that there is a split incentive problem, where "the cost of investing in energy and water efficiency improvements is borne by one party while the other experiences the benefits of reduced utility costs resulting from those improvements." SAJE rejects the framing that building decarbonization is primarily constrained by a "split incentive" between landlords and tenants. This framing treats energy efficiency improvements as optional investments that primarily benefit tenants through reduced utility bills. Instead, building decarbonization should be understood as a matter of health, safety, and habitability and as a fundamental responsibility of the landlord, not as an amenity that creates competing financial interests. Moreover, landlords derive substantial benefits from these investments. Landlords continue to collect rental income while simultaneously increasing the value of their buildings through capital improvements.This point is particularly important because the report itself later acknowledges on Page 79 that building performance improvements increase property values. Landlords also have access to myriad subsidy and incentive programs that help them defray the costs of decarbonization upgrades.

Naturally Occurring Affordable Housing

The report claims that in California, about 37% of the available affordable housing stock is naturally occurring affordable housing. SAJE strongly recommends reconsidering both the terminology and the framing used throughout this section. First, many tenant and housing advocates do not use the term "Naturally Occurring Affordable Housing" because affordability in the private market is rarely natural. Housing is often affordable only because of rent stabilization or other public interventions. Second, common methodologies used to estimate NOAH frequently overstate the amount of affordable housing by assuming that housing located in low-income census tracts is affordable. These approaches fail to account for the widespread rent burden experienced by tenants across California and therefore paint an inaccurate picture of affordability.

Most importantly, the report conflates fundamentally different housing sectors. Private-market "affordable" housing is not equivalent to deed-restricted affordable housing. Mission-driven nonprofit and publicly subsidized affordable housing providers own and operate permanently affordable housing under long-term affordability restrictions. By contrast, owners of so-called NOAH properties operate within the private market. They may reset rents following tenant turnover, impose substantial annual rent increases (up to the legal maximum), and otherwise treat these properties as market-rate investments.

The discussion in this section moves back and forth between NOAH and subsidized housing, making it difficult to understand which sector is being analyzed. The report devotes significant attention to the financial challenges faced by private-market owners while acknowledging that these owners are likely to increase rents after making energy efficiency improvements. At the same time, it does not adequately address the distinct challenges facing the deed-restricted affordable housing sector. The report should distinguish between these ownership models.

The deed-restricted affordable housing sector faces a different set of challenges that is worth analyzing. Unlike private-market owners, mission-based affordable housing providers are committed to preserving long-term affordability and cannot rely on the same mechanisms to finance capital improvements, such as raising rents, allowing affordability restrictions to expire, or selling properties. Instead, providers face a convergence of financial and operational constraints that limit their ability to undertake decarbonization. These include restricted rental revenue due to affordability covenants, limited operating subsidies, depleted reserves, rising insurance and utility costs, aging buildings with significant deferred maintenance, high tenant arrears following the COVID-19 pandemic, and limited access to conventional financing because operating revenue is insufficient to support additional debt. Many providers also reported that decarbonization cannot occur independently of broader rehabilitation needs, as outdated roofs, electrical systems, plumbing, and other building infrastructure must first be repaired or replaced before electrification measures can be installed. These challenges are fundamentally different from those facing private-market owners and warrant separate analysis and policy recommendations. This report should examine this sector in greater depth. While the report discusses Alternative Compliance Pathways and notes in its recommendations that "affordable housing" could fall within this framework, it does not define what constitutes affordable housing.

Page 85- correction needed

"According to SAJE, harassment is a prevalent issue in areas *without* rent stabilization ordinances." This statement should be corrected. According to SAJE, harassment is a prevalent issue in jurisdictions with rent stabilization ordinances, not in those without them. This is because rent stabilization limits landlords' ability to increase rents, and some landlords, to sidestep these protections, look for ways to pressure or force tenants out of their homes so they can re-rent the units at higher rates. Such conduct constitutes tenant harassment.

Benchmarking compliance and BPS enforcement

The report acknowledges the significant compliance challenges already associated with existing benchmarking requirements, noting that statewide compliance is only approximately 50%. This demonstrates that many building owners routinely fail to comply with current requirements. We agree with the report that strong enforcement will be necessary and that meaningful financial penalties should be imposed for noncompliance. To be effective, however, penalties must exceed the cost of compliance; otherwise, building owners may simply choose to pay the penalty rather than undertake the required work. The CEC should therefore clarify that any financial penalties must be set at levels that are greater than the cost of compliance in order to create an effective incentive for compliance.

Chapter 4, Tenant Protections

The recommendations in this section appropriately recognize that strong tenant protections must accompany implementation of a statewide BPS. However, the recommendations, in a number of instances, overlook broader weaknesses in current law that could undermine the effectiveness of a BPS and increase the risk of tenant displacement. The comments below offer recommendations to strengthen several of the proposals identified in the literature review section of this report. Notably, none of these recommendations are ultimately incorporated into the report's final recommendations.

- **Establish regulatory authority for the state to prevent abuse of the Ellis Act to force evictions and additional authority to enforce the requirements of the Tenant Protection Act.**

These should be treated as two distinct policy recommendations, because The Ellis Act and the Tenant Protection Act don't overlap frequently. The Ellis Act is most relevant in jurisdictions with local rent stabilization ordinances, which represent fewer than 40 cities statewide. As a result, Ellis Act implementation and enforcement have been primarily local responsibilities, with many cities having their own procedures and requirements for property owners to demonstrate a valid Ellis Act–this is not to say their approaches have been successful. Because many local jurisdictions lack the staff and resources necessary to consistently monitor or enforce Ellis Act requirements, this makes sense as a statewide enforcement issue. Recommendations related to the Ellis Act should also include focus on strengthening local implementation capacity to prevent misuse in local jurisdictions.

By contrast, the Tenant Protection Act is a statewide law governing rental housing across California. Despite its broad applicability, there is currently no dedicated state agency responsible for implementing or enforcing the law, and local jurisdictions do not typically enforce it either. Enforcement is largely left to individual tenants through private legal action. The Attorney General has authority to intervene but rarely does so. As California advances a BPS, stronger implementation and enforcement capacity will be essential to ensure landlords do not exploit gaps in enforcement to unlawfully displace tenants during decarbonization. The recommendation should emphasize the need for dedicated statewide oversight, enforcement authority, and resources for the Tenant Protection Act.

- **Amend the Tenant Protection Act to include buildings less than 15 years old in statewide rent stabilization.**

Expanding the TPA to buildings less than 15 years old would address one important exemption, but it is only one of several significant weaknesses in the Tenant Protection Act. The TPA contains numerous exemptions and loopholes that undermine its effectiveness and create opportunities for landlords to circumvent tenant protections.

As statewide BPS is implemented, these loopholes are likely to become even more consequential. Landlords facing retrofit mandates may seek to use existing exemptions, like the no-fault just cause for substantial remodel work, to remove tenants, increase rents, or avoid regulatory obligations. This is not a hypothetical concern. For instance, Dennis Block, a prominent landlord attorney known for representing property owners in eviction cases, recently published a webinar for landlords on how to use the substantial remodel loophole to replace existing tenants with higher-paying renters.

Rather than focusing solely on the 15-year exemption, this recommendation should call for a broader review and amendment of the TPA to specifically eliminate the substantial remodel loophole that could facilitate displacement during decarbonization. And this should be done before BPS implementation.

- **Align rent stabilization ordinances between state and local jurisdictions.**

California's local rent stabilization ordinances differ substantially because they reflect local housing market conditions and political conditions. Moreover, the Costa-Hawkins Rental Housing Act limits the scope of local rent control by prohibiting cities from applying rent stabilization to most housing built after February 1, 1995 (or an earlier local cutoff date that was already in effect) meaning it would be almost impossible to align the rent stabilization ordinance of local jurisdictions. A more effective recommendation would be to strengthen the Tenant Protection Act so that it establishes a meaningful statewide baseline of tenant protections. The current law provides significantly weaker protections than many local rent stabilization ordinances. For example, it permits annual rent increases of up to 5% plus inflation. In Los Angeles County, for instance, the allowable increase is 8.7% this year. In addition, the TPA contains numerous exemptions and loopholes that weaken its effectiveness and create opportunities for displacement, as previously mentioned.

- **Provide temporary relocation assistance during substantial remodels.**

This recommendation requires clarification regarding who is responsible for providing relocation assistance– the landlord, or the CEC? Under the Tenant Protection Act, landlords may currently use the "substantial remodel" provision as a basis for eviction. Once a tenant is permanently displaced, temporary relocation assistance becomes largely irrelevant because the tenant no longer has the right to return. As a result, just recommending temporary relocation assistance does not address the underlying displacement risk associated with building decarbonization.

A stronger recommendation would be to amend the Tenant Protection Act to prohibit evictions for substantial remodels. California can build on work already undertaken by Los Angeles, which has prohibited use of substantial remodel as a basis for eviction.

- **Establish BPS-specific tenant protections linked to noncompliance with BPS requirements.**

Rather than recommending that BPS-specific tenant protections be developed, the report should identify the minimum protections that should apply to all buildings subject to BPS. At a minimum, these should include: 1) No pass-through costs to tenants. 2) Protection from eviction, even where existing law would otherwise permit eviction for substantial remodels. 3) Protections against construction-related harassment; the program should establish clear standards governing construction practices in occupied buildings and include strong enforcement mechanisms and penalties for owners who use construction activities to harass tenants or expose tenants to unsafe and hazardous conditions.

- **Tie decarbonization incentives and other state housing subsidies to tenant protections.**

Public funding for building decarbonization should be conditioned on enforceable tenant protections to ensure that public investments do not contribute to tenant displacement or rent increases. At a minimum, recipients of incentives and subsidies should be required to: 1) maintain affordability through rent caps or extended deed restrictions. 2) prohibit the pass-through of BPS costs to tenants; 3) refrain from evicting tenants for BPS-related substantial remodel work . Property owners who violate these conditions should be subject to meaningful penalties, including repayment of public funds, disqualification from future incentive programs, and other enforcement actions.

Outside of this section, the report cites protections from voluntary incentive programs, including the San Joaquin Valley pilots and the Equitable Building Decarbonization Direct Install Program, as potential models for a statewide BPS. However, these examples are not directly applicable. The protections in these programs are effective because participation is voluntary. Property owners choose to receive public funding in exchange for agreeing to certain conditions, including limits on rent increases and eviction protections. A mandatory statewide BPS is fundamentally different. Property owners will not have the option of declining participation, meaning tenant protections cannot rely solely on program participation agreements, lease addenda, or deed restrictions. Instead, meaningful tenant protections will require legislative authority and enforceable statewide requirements. The report should clearly distinguish between voluntary incentive program conditions and the legal framework necessary to protect tenants under a mandatory regulatory program.

Reliance on subsidies

The discussion of subsidies also warrants additional context. The report suggests that subsidizing decarbonization could protect tenants by conditioning funding on limits to rent increases and evictions. While this approach has merit, it is not a comprehensive solution because available public funding is nowhere near sufficient to decarbonize California's entire building stock. Even if substantially more funding were available, public subsidies should be strategically targeted. Limited public resources should prioritize publicly owned housing and mission-driven nonprofit affordable housing, where investments preserve permanently affordable housing. By contrast, subsidizing improvements to private-market rental housing without robust affordability requirements risks increasing the value of privately owned assets with limited long-term public benefit.

Appendix G

The report cites the EBD Direct Install Program as an example of incorporating tenant protections into building decarbonization programs. While the program guidelines include important protections on paper, our recent discussions with administrators of the Southern California EBD Program raise significant concerns about whether those protections will be meaningfully enforced. Program administrators stated that they do not believe it is the County's responsibility to enforce the tenant protections contained in the program guidelines, instead suggesting that enforcement should be left to local jurisdictions. This approach is problematic because many local governments lack the staff, resources, or authority to proactively enforce tenant protections. Program staff also indicated that they are unwilling to revise the Program Participation Documents because the program has already launched. When concerns were raised regarding the absence of meaningful enforcement mechanisms, administrators acknowledged the issue but did not identify a solution. One administrator further suggested that some multifamily property owners had declined to participate because of the tenant protection requirements and that these owners may simply make different "business decisions" in the future. This experience illustrates an important lesson for a statewide BPS. Tenant protections are only as effective as the mechanisms available to enforce them. Requirements that exist solely in program guidelines or participation agreements, without dedicated oversight and enforcement, provide little protection for tenants.

Overall assessment of tenant protections

Most notably, despite extensive discussion of the range of tenant protections that could accompany a statewide BPS, from statewide statutory reforms to enhanced regulatory oversight and enforcement, virtually none of these ideas are carried forward into the report's final recommendations. Instead of recommending concrete, enforceable statewide protections, the report largely relies on voluntary practices and local implementation. As a result, it misses an important opportunity to address the challenges of adopting a statewide BPS without creating unintended consequences, and to recommend how the state should respond to those challenges by adopting strong, enforceable state tenant protections.