

DOCKETED

Docket Number:	22-DECARB-03
Project Title:	Equitable Building Decarbonization Program
TN #:	251092
Document Title:	Strategic Actions for a Just Economy Comments - Tenant Protections in Equitable Building Decarbonization Program
Description:	N/A
Filer:	System
Organization:	Strategic Actions for a Just Economy
Submitter Role:	Public
Submission Date:	7/18/2023 5:28:29 PM
Docketed Date:	7/19/2023

Comment Received From: Strategic Actions for a Just Economy
Submitted On: 7/18/2023
Docket Number: 22-DECARB-03

Tenant Protections in Equitable Building Decarbonization Program

Additional submitted attachment is included below.

To: Mona Badie, California Energy Commission
From: Chelsea Kirk, Strategic Actions for a Just Economy;
Date: July 18, 2023
Subject: Ensuring Tenant Protections in California's Equitable Building Decarbonization Program

Dear Members of the California Energy Commission,

I am writing on behalf of Strategic Actions for a Just Economy to advocate for the inclusion of robust tenant protections in the Equitable Building Decarbonization (EBD) program.

In our work, we witness firsthand the struggles faced by low-income renters in our communities. We commend the California Energy Commission for its commitment to fostering environmental equity for these constituents by establishing the EBD program. We believe that by working collaboratively, we can shape a program that not only achieves its sustainability goals but also protects vulnerable renters and ensures affordable housing for all.

However, the effectiveness of any decarbonization program for low-income households will be tragically undermined if it causes housing costs to rise or creates housing instability for renters. If the commission is truly committed to protecting low-income renters from eviction, displacement, and from having to bear the financial burden of state-mandated decarbonization efforts, the below recommendations should be implemented.

RECOMMENDATIONS

Throughout California, tenants are governed by different housing laws and enjoy different protections. By understanding the differences and the specific needs of each locality, we can work toward ensuring housing stability and security for all residents. Generally, protections fall into four categories:

- Local rent control: Municipal rent stabilization ordinances that establish rent caps and impose restrictions on evictions.
- State rent control: California rent-control legislation (AB1482), which is comparatively less stringent than local rent control. This law contains a provision that allows eviction for substantial remodeling purposes.
- Affordable housing: Any unit of housing that is deed-restricted, covenanted, income-restricted, or subsidized in some way. Nonprofit affordable housing units, many of which have deed restrictions that expire within the next 20 years. (Affordable housing and below-rate private rental housing [often referred to as “naturally occurring affordable housing” or “NOAH housing”] should have different protections.
- No protections: With few exceptions, tenants in buildings that are fewer than 15 years old are not covered by protections.

In order to ensure all tenants are protected from unreasonable rent hikes, harassment, and evictions due to decarbonization efforts, the California Energy Commission should ensure the EBD program achieves the following goals:

1. Maintain Affordability through Rent Caps and Extended Deed Restrictions

For affordable housing units, the CEC should mandate the extension of existing deed restrictions by 10 years. For example, if a building's deed restriction is set to expire in 2029, after program participation, it should be extended to expire in 2039.

However, a significant portion of the state's affordable housing stock lacks deed restrictions, and property owners have the option to raise rents to cover costs associated with decarbonization mandates even if these buildings are protected by local rent-stabilization laws. If a privately owned rental unit benefits from the EBD program, it should be subject to a rent cap of 3% for 5 to 15 years, and property owners should be prohibited from utilizing cost-recovery programs to increase rents. Any rent increase, up to 3%, should be based only on a demonstrable increase in property taxes, amortizing improvements unrelated to decarbonization, or an increase in property maintenance and operation expenses.

Rent Cap Proposal

- The annual rent increase is capped at a maximum of 3% for 5- 15 years.
- Private landlords cannot utilize cost-recovery programs such as Los Angeles' Major Capital Improvements Program to justify rent hikes.
- Tenants protected under AB1482 benefit from the stricter rent-control provisions, reducing the annual allowable rent increase from 10% to 3%.
- Tenants who previously had no protections now have a rent cap in place.
- If a tenant vacates a unit during the rent-cap period, the unit will maintain the same rental rate.

2. Protect Tenants from Eviction

Robust tenant protections prevent landlords from exploiting lax eviction laws and the AB1482 loophole that allows evictions under the pretext of remodel work. Property owners who participate in the EBD program must be prohibited from evicting tenants for any reason other than nonpayment of rent (where the owed amount must exceed one month of Fair Market Rent [FMR] for the respective unit size) or criminal activity in the unit. This provision aims to keep low-income tenants housed and prevent mass evictions like the one currently underway at Barrington Plaza in West Los Angeles.

3. Enact Tenant Relocation and Safeguards

Construction work related to building decarbonization retrofits may require tenants to relocate. The EBD program must allocate adequate funding for relocation so that tenants are not unduly inconvenienced or exposed to safety hazards in their units or buildings. The program should also establish a robust Right to Return policy to guarantee tenants who are displaced due to decarbonization-related construction work have the opportunity

to return to their units once the work is completed. Such a policy would secure long-term stability and protect housing rights.

4. Minimize Disruptive Construction

We recommended limiting construction to a maximum of 30 days. Efforts should be made to ensure that construction is carried out systematically to minimize delays and interruptions that might prolong the duration of the work. In addition, in order to ensure construction is minimally disruptive to tenants, the EBD program should require:

- A health and safety assessment to determine whether it is safe for tenants to remain in their homes during construction.
- The duration of construction is capped at 30 days.
- Property owners may not evict tenants to carry out retrofits.
- Construction standards are regulated to ensure minimal disruption to tenants.
- Construction work occurs between 9:00 a.m. and 4:00 p.m., Monday through Friday
- Direct installers receive sensitivity training to minimize harm to tenants as they work in their units or buildings.
- Tenants who must relocate are re-housed within a two-mile radius of their homes in equivalent accommodations. Property owners should also provide a per-diem relocation allowance similar to the GSA rates.
- Residents receive advance notice about construction projects, including information about the scope of work, timeline, and any disruptions that may occur.
- Property owners receive a list of qualified contractors who are certified to do high-quality work. The EBD program should also offer direct installation when possible.

5. Institute Enforcement Mechanisms

The property owner, tenant, and community-based organization (CBO) case manager should sign an agreement outlining all requirements and restrictions related to decarbonization-related construction and retrofits. All parties should receive a copy of the agreement and it should include CBO contract information so that the tenant can file a complaint if the property owner violates the agreement. The CBO case manager should also:

- Provide tenants with a notice of their legal rights and the specific provisions of the agreement, with detailed explanation of rights, liabilities, and avenues of legal recourse.
- Check in with the property owner and the tenant every six months to ensure that the agreement is being adhered to. The CBO case manager should require the property owner to certify they have followed the agreement.
- Have the authority to investigate complaints made by the tenant and conclude whether the property owner violated the agreement.
- Require the property owner to certify that the same tenant resides in the building, and that the rental rate has not changed. This document should be attached to the annual registration information for the city, if that is a local requirement.

6. Enact Penalties

If a property owner breaches the EBD project agreement, they should:

- Reimburse the agency in the amount equal to the amount spent on retrofits and program participation, including parts, labor, overhead costs, attorney's fees, court costs, and interest at the statutory rate for judgments from the time of the breach. If the property owner cannot repay these costs, a lien should be placed against their property.
- Be liable for damages to a tenant or applicant for tenancy in the amount of \$100 per day.
- Be prohibited from utilizing public subsidy programs for buildings they own.