

DOCKETED

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**Strategic Actions for a Just Economy - Comments on 2024
California Building Energy Action Plan**

Additional submitted attachment is included below.

To: California Energy Commission
From: Grace Hut, Strategic Actions for a Just Economy
Date: March 26, 2024
Subject: Public Comment on 2024 California Building Energy Action Plan Workshop

Dear Members of the California Energy Commission,

I am writing on behalf of Strategic Actions for a Just Economy to support and inform the inclusion of a tenant protections section in the 2024 California Building Energy Action Plan.

As a community-based organization in South Los Angeles, we see firsthand the impacts of the climate and housing crises on low-income communities. It is crucial that these communities be prioritized in California's climate efforts through the development of decarbonization programs that include strong, enforceable tenant protections. Such protections are essential for ensuring that low-income renters can access building retrofits without fear of rent increases and displacement.

We commend the CEC for the commitment to low-income tenants it has demonstrated by including a tenant protections section in both the 2024 Building Energy Action Plan proposed scope and the Equitable Building Decarbonization (EBD) program guidelines. However, while we greatly appreciate the inclusion of tenant protections in the EBD guidelines, we are concerned about the effectiveness of guidelines that lack enforcement mechanisms. We urge the CEC to strengthen the enforcement mechanisms in the EBD program guidelines¹ and to use these strengthened guidelines to inform policy recommendations in the 2024 Building Energy Action Plan. Further details on our recommendations for the 2024 Building Energy Action Plan are outlined below.

RECOMMENDATIONS

To prevent decarbonization from negatively impacting renters, it is important to understand the variance and gaps in tenant protections across localities. The 2024 Building Energy Action Plan should highlight the risk of rent-increases (due to a lack of rent-stabilization legislation or capital improvement pass-throughs) and evictions for substantial remodels by including an analysis of state and local tenant protections. Generally, tenant protections fall into four categories:

- Local rent control: Municipal rent stabilization ordinances that establish rent caps and impose restrictions on evictions. Many local rent control policies allow for eviction for substantial remodeling purposes or allow for the costs of renovation work to be passed on to tenants in the form of a rent increase.
- State rent control: California rent-control legislation (AB1482) is comparatively less stringent

¹For SAJE's comments on the Equitable Building Decarbonization guidelines, see Appendix 1 attached to comments filed by Building Energy, Equity and Power Coalition on October 17, 2023
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=252613&DocumentContentId=87704>

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.

To create alignment across various programs and ensure all tenants are protected from unreasonable rent hikes, harassment, and evictions, the 2024 Building Energy Action Plan should recommend that the following goals be standardized across decarbonization programs:

- 1. Maintain Affordability through Rent Caps and Extended Deed Restrictions:** For affordable housing units, programs 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 a decarbonization 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. This rent cap should be a maximum cap rather than an additional 3% on top of already allowable rent increases. Further, 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. This cap applies to buildings of all sizes (number of units does not denote ownership type and therefore exceptions should not be made for smaller buildings).
- 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. After a landlord has received a

public subsidy to improve their private property, consequently raising its value, they should not have the right to evict a tenant with the exception of very specific situations.

It is not enough to prevent landlords from evicting tenants solely due to renovation work. Property owners who participate in decarbonization programs should be prohibited from evicting tenants for reasons other than nonpayment of rent (where the owed amount must exceed one month of Fair Market Rent [FMR] for the respective unit size), illegal activity, or severe nuisance. This includes situations where there is “no-fault just cause” for eviction, including reasons like an owner wanting to move in.

For the EBD program, we ask the CEC to require eviction protections to be in place for 15 years following project completion. These requirements should be included in the lease addendum as a restriction on the landlord’s ability to terminate the tenancy.

3. Enact Tenant Relocation Safeguards

Projects should be designed to avoid the need for temporary displacement. For the EBD program, we suggest that projects that will require tenant relocation should not be able to participate. If after construction begins on an approved EBD project and participants learn it will require the tenant to temporarily relocate, the program should pay for the relocation in a hotel within 2 miles of the home and grant funds for tenants according to General Services Administration rates.

Decarbonization programs must allocate adequate funding for relocation when it is necessary so that tenants are not unduly inconvenienced or exposed to safety hazards in their units or buildings. Programs should also establish a robust Right to Return policy to guarantee that tenants who are displaced due to decarbonization-related construction work have the opportunity to return to their units once the work is completed.

4. Minimize Disruptive Construction

Programs should offer direct installation whenever possible to minimize construction-related displacement and haphazard construction practices. Efforts must also 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, decarbonization programs 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. This information should be communicated clearly to tenants in the language they are most comfortable speaking and reading in.

- Property owners receive a list of qualified contractors who are certified to do high-quality work.

5. Institute Enforcement Mechanisms

Property owners and parties responsible for enforcing program guidelines (program administrators/CBOs) should sign a binding agreement outlining all requirements and restrictions related to decarbonization-related construction and retrofits. All parties should receive a copy of the agreement, which should include CBO/program administrator contract information so that the tenant can file a complaint if the property owner violates the agreement. The CBO case manager/program administrator 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 honored. The CBO case manager should require the property owner to certify that 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

Landlords and tenants should be required to sign an agreement in the form of a lease addendum for enforceability purposes. If a property owner breaches such an 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.
- Be obligated to reimburse the tenant for any attorney fees that are incurred from enforcing the agreement.

SAJE appreciates the opportunity to engage in the development of the 2024 Building Energy Action Plan. We look forward to continuing our collaboration with the CEC and welcome further discussion on the topic of tenant protections.