

# Bulletin

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## City of Los Angeles's New Rent Control Ordinance Upheld by Court

Until recently a developer who constructed a new building in the City of Los Angeles was exempt from rent control. This is because both state and local laws exempted properties from rent control where a new certificate of occupancy was issued. See *Costa-Hawkins Rental Housing Act*, Civil Code Section 1954.50 *et seq.*, and Los Angeles Municipal Code §151.02. Notwithstanding these laws, in 2007 the City of Los Angeles enacted Municipal Code Section 151.28 which re-imposed rent control on newly constructed buildings if they are built on the site of a formerly rent controlled building and the units are placed back on the rental market within five years of them being withdrawn.

Opponents of the new law sued, arguing that the City was barred from creating such an ordinance by state law under the theory of preemption. The California Court of Appeals disagreed, upholding the ordinance on the ground that another state law, known as the Ellis Act, authorized such a re-imposition. See *Apartment Association of Los Angeles County, Inc. v. City of Los Angeles* and Ellis Act, Government Code Section 7060, *et seq.*

The ordinance and subsequent ruling create serious issues for developers of new residential condominium units in Los Angeles that are constructed on the site of old rental housing that was subject to rent control. New projects are not selling well in the current market and the developers are turning unsold units into rentals to improve the cash flow until the market improves. Before renting the units the developers will need to take into consideration all aspects of the rent control law including the limitations on rental rates and rent increases, tenant notice and registration requirements, first right of refusal issues and relocation assistance payments. Failure to comply with these requirements will expose developers to liability for substantial civil penalties and punitive damages.

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**If you have a condominium project in the City of Los Angeles that was constructed on the site of an apartment building that was subject to rent control and was removed from the rental market under the Ellis Act, you should not rent out the unsold units without determining whether the units are subject to the provisions of the City of Los Angeles Rent Control Ordinance and the re-imposition of rent control and related notice requirements.**