

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: July 13, 2021

TO: Honorable Members of the Rules, Elections & Intergovernmental Relations Committee

FROM: Sharon M. Tso *KKJ*
Chief Legislative Analyst
Council File No: 21-0002-S81
Assignment No: 21-04-0282

SUBJECT: Resolution (Koretz, Harris-Dawson – Raman) to support AB 854 (Lee)

CLA RECOMMENDATION: Adopt the attached Resolution (Koretz, Harris-Dawson – Raman) to include in the City’s 2021-2022 State Legislative Program SUPPORT for AB 854 (Lee) which would require a minimum of five years of ownership prior to becoming eligible for invocation of the Ellis Act.

SUMMARY

Resolution (Koretz, Harris-Dawson – Raman), introduced March 23, 2021, advises that Government Code Section 7060 (the Ellis Act) allows landlords to terminate tenancies in rent-control jurisdictions without cause to withdraw property from the rental market. Since its enactment in 1985, more than 27,000 units have been withdrawn from the rental market in Los Angeles under the Ellis Act, with additional tens of thousands of units in other jurisdictions. Such evictions most often affect long-term, elderly, disabled and below-market rent tenants, causing great upheaval and disruption, and placing them at risk of homelessness or displacement. Current law destabilizes the rental market and disadvantages tenants via use of the Ellis Act to empty rent stabilized properties for redevelopment.

The Resolution further advises that the vast majority of evictions occur within five years of the owner purchasing a property, as speculative developers will “go out of business” immediately after purchase. This creates a major loophole for speculative developers and provides an incentive to destroy California’s rent-controlled housing for profit. AB 854 (Lee) seeks to halt speculative Ellis Act evictions by requiring five years of ownership prior to invocation of the Ellis Act. Similar proposals have been supported by the City Council in the past.

The Resolution recommends that the City support AB 854 (Lee) which would require a minimum of five years of ownership prior to becoming eligible for invocation of the Ellis Act.

BACKGROUND

The shortage of housing in the State of California has resulted in an affordability crisis, driven by factors such as low rates of construction, high demand, and high property values. These factors have resulted in market rate housing being unaffordable to a large majority of California residents. The same market conditions causing high rental rates have also contributed to difficulty in constructing new affordable housing. The limited availability of affordable housing is further exacerbated by the loss of the existing affordable housing stock throughout the State.

In 1984, the California Supreme Court upheld the authority of a local jurisdiction to limit property owners’ ability to demolish their rental properties in *Nash v. the City of Santa Monica*. The Ellis Act, passed in 1985 directly in response to the decision, allows landlords to employ no-fault evictions to remove their property from the rental market. The law is intended to allow landlords who wish to

withdraw from the rental market to empty their rental units but has since been used as a method to evict tenants for the purposes of development and subsequent lease at market rate. This process has contributed to a substantial loss of rent-controlled rental properties across the state.

Several protections have been adopted to protect tenants from the Ellis Act. Existing law requires that if units withdrawn from the market pursuant to the Ellis Act are returned to the market within five years, they must be offered at the rental rate in place at the time of their withdrawal. Additional measures regarding eviction notice to tenants in a timely manner have also been passed. Despite the additional measures adopted to regulate the Ellis Act eviction process and provide protections against displacement, the loss of affordable rental units has continued. According to data from the Housing and Community Investment Department (HCID), between 2001 and March 2021, property owners used the Ellis Act to file notice to withdraw 27,217 rent-controlled units from the market in the City.

According to the Western Center on Law and Poverty, many Ellis Act evictions are facilitated by developers who have owned a property less than a year. AB 854 (Lee) would seek to address the issue by prohibiting Ellis Act evictions unless the owner or owners of a property have held the property for five continuous years prior to withdrawal. The bill would also require any landlord filing notice for an Ellis Act eviction to disclose the identity of the owner or owners of said property and prohibit landlords who have withdrawn their rental property pursuant to the Ellis Act to file another Ellis Act withdrawal within 10 years. In order to prevent coordination between rental property owners, the bill further prohibits any actions in concert with previous or subsequent owners of a property to circumvent provisions of the bill.

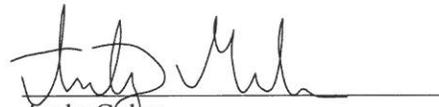
AB 854 would provide additional protections to prevent the destruction of the affordable housing stock by speculative owners. Support for AB 854 (Lee) would be consistent with past efforts to prevent displacement, protect renters, and maintain the City's affordable housing stock.

DEPARTMENTS NOTIFIED

Housing and Community Investment Department

BILL STATUS

02/17/21	Introduced
03/18/21	Referred to Committee on Housing and Community Development and Committee on Judiciary.
03/18/21	Amended by author, re-referred to Committee on Housing and Community Development.
03/22/21	Re-referred to Committee on Housing and Community Development.


Andy Galan
Analyst

Attachments: 1. Resolution (Koretz, Harris-Dawson – Raman)

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, Government Code section 7060 et seq. (the Ellis Act, or, Ellis) allows landlords to terminate tenancies in rent-control jurisdictions without cause in order to withdraw property from the residential rental market and since its enactment in 1985, more than 27,000 units have been withdrawn from the rental market in Los Angeles alone under the Ellis Act, with an additional tens of thousands in other jurisdictions throughout California; and

WHEREAS, such evictions most often affect long-term, elderly, disabled and below-market rent tenants and cause great upheaval and disruption and often result in these residents having to risk becoming homeless or leave the City since market rents have become out of reach for many tenants; and

WHEREAS, the current law destabilizes the rental market and disadvantages tenants via the increasingly emergent pattern of Ellis being used by developers to empty rent stabilized properties so they can be redeveloped; and

WHEREAS, the vast majority of these evictions occur within five years of the owner purchasing the property, as speculator developers will often purchase the property and "go out of business" immediately after, making the Ellis Act a major loophole for speculator developers that provides an incentive to destroy California's rent-controlled housing for profit.

WHEREAS, AB 854 (Lee) seeks to stop speculator Ellis evictions by requiring five years of ownership before the Ellis Act can be invoked, a proposal which this Council has supported in prior legislative years.

NOW, THEREFORE, BE IT RESOLVED, that with the concurrence of the Mayor, by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2021-2022 State Legislative Program SUPPORT for Assembly Bill 854 which provides that apartment buildings must be owned for a minimum of five years before becoming eligible for invocation of the Ellis Act.

PRESENTED BY: Paul Koretz
PAUL KORETZ
Councilmember, Fifth District

Marqueece Harris-Dawson
MARQUEECE HARRIS-DAWSON
Councilmember, Eighth District

SECONDED BY: Nithya Rana

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[Signature]