



Jesse Arreguín
Councilmember, District 4

CONSENT CALENDAR
May 3, 2011

To: Honorable Mayor and Members of the City Council
From: Councilmember Jesse Arreguín
Subject: Supporting Senate Bill 337, Prohibiting Landlords from Abridging Tenant Free Speech Rights

RECOMMENDATION:

Adopt a Resolution supporting Senate Bill (SB) 337, authored by Senator Christine Kehoe, which would prohibit landlords from abridging tenant free speech rights to post noncommercial signs, posters, etc. within any portion of a tenant's dwelling unit.

BACKGROUND:

The ability to freely express one-self is presently denied to nearly 40% of all Californians. Tenants have no guaranteed right to expression on the very property they call home, simply because they are not the legal owner of where they live.

While tenants have many rights provided to them under state and local laws, several forms of expression are not protected. Currently, a lease for rental property can legally prohibit a tenant from flying a flag or banner, posting non-commercial signs or even displaying signs that are political in nature.

People should not lose their right to freedom of expression simply because they rent their property. Any discrimination that prevents freedom of expression, based on whether or not you own property is a denial of rights that belong to all people.

SB 337, authored by Senator Kehoe, explicitly grants tenants the right to post and display signs, flags or other noncommercial signs as a form of expression that may be displayed where they live. Tenants would still be prohibited from displaying signs or messages that violate federal, state, or local laws. Tenants would also be required to take into consideration the overall effect of their display on a landlord's property.

SB 337 is supported by the American Civil Liberties Union, Tenants Together and the Congress of California Seniors.

Senator Kehoe introduced similar legislation in 2006 which was approved by the State Legislature but was ultimately vetoed by then-Governor Arnold Schwarzenegger.

FINANCIAL IMPLICATIONS:

None.

CONTACT PERSON:

Jesse Arreguín, Councilmember, District 4

981-7140

Attachments:

1. Resolution
2. Copy of Senate Bill 337

RESOLUTION NO. ##,###-N.S.

SUPPORTING SENATE BILL (SB) 337, PROHIBITING LANDLORDS FROM
ABRIDGING TENANT FREE SPEECH RIGHTS

WHEREAS, the free communication of ideas and opinions is one of the most precious of the rights of man; and

WHEREAS, freedom of speech is protected under both the United States and California Constitutions, though that protection is not absolute and varies depending on the type of speech, actors involved, and context; and

WHEREAS, in *City of Ladue v. Gilleo*, the United States Supreme Court recognized that a person's ability to post a sign on his or her own residence is a valuable right protected by the First Amendment of the U.S. Constitution; and

WHEREAS, the State of California has since recognized the importance of permitting residents to post signs on residential property with laws protecting such speech at specific venues, including mobilehome parks and Common Interest Developments; and

WHEREAS, while tenants have many rights provided to them under the law, they have no such guaranteed right to expression on the very property they call home, simply because they are not the legal owner of where they live; and

WHEREAS, currently, a rental agreement can legally prohibit a tenant from flying a flag or banner, posting non-commercial signs or even displaying signs that are political in nature; and

WHEREAS, Senate Bill (SB) 337, authored by Senator Christine Kehoe, would explicitly grant tenants the right to post and display signs, flags or other noncommercial signs as a form of expression that may be displayed where they live; and

WHEREAS, SB 337 is supported by the American Civil Liberties Union, Tenants Together and the Congress of California Seniors; and

WHEREAS, Without explicit protection, the ability to freely express one-self is denied to nearly 40% of all Californians who are tenants. People should not lose their right to freedom of expression simply because they rent their property. Any discrimination that prevents freedom of expression, based on whether or not you own property is a denial of rights that belong to all people.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports Senate Bill (SB) 337 and that copies of this resolution be sent to the Assembly Judiciary Committee, Senator Christine Kehoe, Assembly Speaker John A. Perez, Assemblymember Nancy Skinner, Senator Loni Hancock and Senate President Pro Tem Darrell Steinberg.

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL**No. 337****Introduced by Senator Kehoe**

February 15, 2011

An act to add Section 1940.4 to the Civil Code, relating to tenancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 337, as amended, Kehoe. Tenancy: noncommercial signs.

Existing law regulates the terms and conditions of residential tenancies. Existing law prohibits the governing documents of a common interest development from prohibiting the posting or displaying of noncommercial signs, posters, flags, or banners on or in an owner's separate interest, except as specified.

This bill would prohibit a landlord from prohibiting a tenant ~~for~~ *from* posting or displaying noncommercial signs, posters, flags, or banners on or within any portion of ~~a the tenant's dwelling unit leased by the tenant~~, unless the posting or display would violate a local, state, or federal law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1940.4 is added to the Civil Code, to
- 2 read:
- 3 1940.4. (a) A landlord shall not prohibit a tenant from posting
- 4 or displaying noncommercial signs, posters, flags, or banners on
- 5 or within any portion of ~~a dwelling unit leased by the tenant~~ *the*

- 1 *tenant's dwelling unit*, unless the posting or display would violate
- 2 a local, state, or federal law.
- 3 (b) The Legislature finds and declares that this section is
- 4 declaratory of existing law.

