



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION

SAN FRANCISCO BAY AREA CHAPTER

May 15, 2020

The Honorable Scott Wiener
California State Senate
Sacramento, CA 95814

Via email to: Miles.Horton@sen.ca.gov cc: cynthia.alvarez@sen.ca.gov &
rhime@cbpa.com

Re: OPPOSITION for SB 939 – UNFAIRLY NEGATES LEASES & HARMS BUSINESSES

Dear Senator Wiener:

We are writing to express strong OPPOSITION to SB 939, which will put small property owners into foreclosure by forcing them to float rent for all tenants and gives restaurants the right to walk away from a lease without squaring up for owed rent nor paying for property improvements.

As a way of background, NAIOP is America's leading association representing real estate developers, owners and related professionals in office, industrial and mixed-use real estate. NAIOP is comprised of approximately 20,000 members in North America and we stand for the advancement of responsible, sustainable development that creates jobs and benefits the communities in which our members work and live. Locally, NAIOP San Francisco Bay Area is comprised of over 650 members which represent millions of square feet of real estate in the Bay Area.

The COVID-19 virus continues to infect populations around the world, putting the health and safety of our communities here in California at serious risk. ALL businesses are impacted by this pandemic, however your bill only provides protection to a small segment, while shifting economic harm to other private businesses and removing rights from those who happen to be in the business of leasing space.

Governor Gavin Newsom has shown courageous leadership in issuing a series of executive orders limiting evictions, including Executive Order N-28-20 which gives local government the ability to protect commercial tenants from evictions. Legislative leadership has also proposed a plan that helps BOTH lessors and lessees. I request your bill be changed to protect all businesses and not a special subset.

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By withholding rent for more than a year, removing existing legal remedies and rights to lessors for an extended period of time, and giving only one party to a contract the right to walk away from a legal obligation with no responsibilities, SB 939 clearly violates the Contracts Clause of the U.S. Constitution and fails the basics of the Blaisdell Test that any court will apply to this legislation. SB 939 is not narrowly tailored to the problem, does not balance the needs of both parties, creates a substantial impairment to one party to the contract, and is not a necessary solution as existing remedies under current law exist.

SB 939 will unreasonably deny commercial real estate lessors' income which will push many into foreclosure, force them to lay-off staff, and will set a bad precedent that undermines all contracts in the state.

We understand your bill is well intended, but it will hurt our organizations companies and their employees. We have already made many concessions to assist our small business owners as their survival directly impacts our survival post COVID-19. Please change or drop your bill before it brings further harm to the State and its working families.

Sincerely,



David Karol
President
NAIOP San Francisco Bay Area Chapter
415-369-9625