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FOR IMMEDIATE RELEASE

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**SUPERIOR COURT JUDGE STRIKES DOWN “EDUCATOR EVICTION” LAW
SF Tenant-Protection Measure Violates State Law By Requiring Extended Eviction Notices**

San Francisco’s attack on property rights suffered yet another defeat today thanks to the efforts of lawyers at ZFP Law. Legislation designed to limit owners’ ability to recover possession of rental units for their own use or occupancy or to recover possession to make repairs or improvements was declared invalid by a San Francisco Superior Court judge.

The Law: In May of this year, the City amended the Rent Ordinance such that landlords who want to recover possession of rental units – such as owner/relative move-in, condo conversion sale, removal from housing use, capital improvements, or rehabilitation work – where the tenants have school-age children or are employed, in any way, by a school or school system, could not terminate the tenancies except during the Summer recess. (S.F. Ordinance #55-16) For example, a landlord who wants to move her ailing, elderly mother into a unit in her building on September 1 would have to wait until next May. The legislation was sponsored by Supervisors Campos, Kim, Mar, Avalos, Cohen, and Breed, and passed unanimously with the Mayor’s signature.

The Case: The San Francisco Apartment Association and Small Property Owners of San Francisco Institute retained Zacks, Freedman & Patterson to challenge the law, and the lawsuit was filed on June 10, 2016.

The Decision: On August 31, 2016, the San Francisco Superior Court issued an order invalidating the City’s ordinance, concluding that, “Since the Ordinance only regulates when some tenancies may be terminated based on who the tenants are, the Court agrees with Petitioners that it is preempted because it enters the fully-occupied field of the ‘timing of landlord-tenant transactions’ which ‘is a matter of statewide concern not amenable to local variations’”.

ZFP Law shareholder Andrew Zacks argued the matter with the assistance of senior litigator James Kraus. Said Zacks, “The judicial system is currently the only hope for vindicating the rights of property owners under the assault of short-sighted, ill-advised, counter-productive, and illegal San Francisco legislation. After 30 years of failed housing policies that have contributed to some of the highest housing prices in the world, San Francisco needs to explore new solutions. We are grateful that the Court acknowledged our primary argument that San Francisco laws must conform to the requirements of California law.”

San Francisco Apartment Association director Janan New added, “Much farther-reaching than the laudable goal of preventing displacement of teachers, the legislation actually made it illegal for a property owner to make necessary capital improvements to their building for nine months out of the year. It was written so broadly that it also prevented property owners from making major rehabilitations to their property anytime from September to June, and made it illegal for a homeowner to move into his or her own home for three quarters of the calendar year, even if the homeowner himself is a San Francisco teacher or school employee. We thank the Court for rightfully striking down the ordinance.”

Zacks, Freedman & Patterson, PC is a law firm dedicated to advocating for the rights of property owners. With experience and knowledge in rent control issues, zoning, permitting, transactional disputes and other real estate matters, Zacks, Freedman & Patterson, PC has successfully advocated its clients’ positions before local administrative tribunals and at all levels of the State and Federal courts, including the U.S. Supreme Court. For more information, call (415) 956-8100 or visit www.zfplaw.com.

Attached:

- 1. Order Granting Petition for Writ of Mandate*
- 2. Ordinance No. 55-16*
- 3. Petition for Writ of Mandate*

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