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Tenants say Bay Area landlords colluded to inflate rents. Now, the Department of Justice is involved

Several Bay Area landlord associations were already facing their own trials in court



By KATE TALERICO | ktalerico@bayareanewsgroup.com | Bay Area News Group

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Over the last year, tenants have brought lawsuits against a group of real estate developers and property management firms — including several in the Bay Area — alleging that they colluded to push up rents by sharing information using a pricing software made by Texas-based company RealPage.

Now, the Department of Justice is getting involved. On Friday, the Biden administration, alongside the attorney general of California and seven other states, filed an antitrust lawsuit against RealPage, accusing the company of reducing competition among landlords and taking over the market for such algorithm-based rental software. It's one of the first major antitrust suits to take aim at a company in the rental housing industry.

"Americans should not have to pay more in rent because a company has found a new way to scheme with landlords to break the law," U.S. Attorney General Merrick Garland said in a statement.

RealPage defends its business and denies that it reduces competition. In a statement on its website posted in June, the company said that landlords using the software “always have 100% discretion to accept or reject software price recommendations.” It blames low housing production and other market factors for higher rental prices. RealPage did not immediately respond to a request for comment from this news organization.

In their lawsuit, the Department of Justice included statements from landlords who describe the software’s anti-competitive practices.

“I always liked this product because your algorithm uses proprietary data from other subscribers to suggest rents and term,” says an unidentified landlord in the complaint. “That’s classic price fixing.”

RealPage came under scrutiny in 2022, when the investigative news outlet ProPublica published an investigation into how RealPage helped landlords to set rent prices for apartments around the country. What followed was a flurry of lawsuits — more than 20, coming in from renters around the country — against RealPage.

The lawsuits also named a number of major multifamily property owners who allegedly used RealPage to agree on prices to set for rent, and to stagger their lease renewal dates so as to avoid any oversupplies in rental properties.

Developers named include big-time Bay Area developers like Greystar, Sares Regis, AvalonBay Communities, the Prometheus Real Estate Group and the Related Companies.

Property managers using revenue management software account for approximately 70% of all multifamily units in the San Francisco area, and 66% of all multifamily units in the San Jose submarket, the consolidated complaint alleges.

The lawsuit also accused nearly 50 additional trade associations — including the East Bay Rental Housing Association, the Berkeley Property Owners Association, the Professional Property Management Association of San Francisco, and San Francisco Apartment Association — of serving as “conduits of the cartel” by providing a venue for RealPage and their property owners to conspire.

In a statement, the Berkeley Property Owners Association Executive Director Krista Gulbransen said her organization does not have, nor has it ever had, a relationship or affiliation with RealPage or any of its subsidiaries. The East Bay Rental Housing Association declined to comment on pending litigation, and the other associations did not immediately respond to requests for comment.

The federal suit has been cheered by tenants’ rights groups, including here in the Bay Area.

“We have long known that corporate landlords play a significant role in inflating housing costs and creating our housing crisis,” said Merika Goolsby, state board member for The Alliance of Californians for Community Empowerment. “We are grateful to the Department of Justice for taking the necessary steps to rein in blatant corporate greed and hold bad actors like Real Page accountable.”

Rents have risen steeply across the Bay Area — in the last nine years, the median rent has risen 19% to \$2,393 in the East Bay, 10% to \$3,060 in San Francisco and San Mateo County, and 21% to \$2,990 in Santa Clara County, according to real estate data company CoStar.

Earlier this month, San Francisco became the first city in the U.S. to take action against companies like RealPage by banning the use of rent-setting algorithms.

It's possible that the nation could follow. In her economic agenda released earlier this month which focuses on concerns around affordability, Vice President Kamala Harris proposed a similar ban on algorithm-powered rent-setting tools.

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