

# LANDLORDS ARE USING AI TO RAISE RENTS — AND CALIFORNIA CITIES ARE LEADING THE PUSHBACK

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Federal prosecutors say the practice amounts to “an unlawful information-sharing scheme” and some lawmakers throughout California are moving to curb it. San Diego’s City Council president is the latest to do so, proposing to prevent local apartment owners from using the pricing software, which he maintains is driving up housing costs. The post *Landlords Are Using AI to Raise Rents — And California Cities Are Leading the Pushback* first appeared on Post News Group.

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**By Wendy Fry, CalMatters**

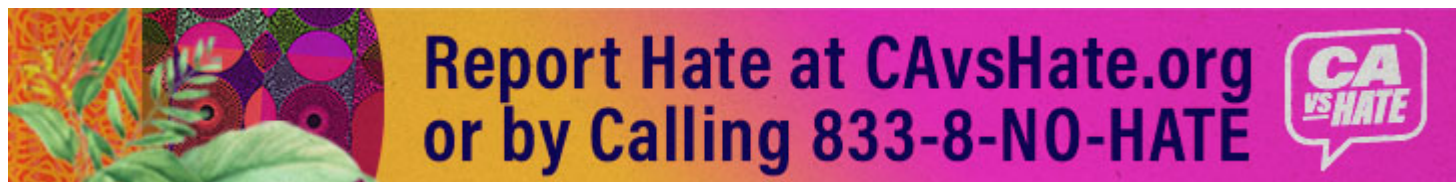
If you've hunted for apartments recently and felt like all the rents were equally high, you're not crazy: Many landlords now use a single company's software — which uses an algorithm based on proprietary lease information — to help set rent prices.

Federal prosecutors say the practice amounts to "an unlawful information-sharing scheme" and some lawmakers throughout California are moving to curb it. San Diego's City Council president is the latest to do so, proposing to prevent local apartment owners from using the pricing software, which he maintains is driving up housing costs.

San Diego's proposed ordinance, now being drafted by the city attorney, comes after San Francisco supervisors in July enacted a similar, first-in-the-nation ban on "the sale or use of algorithmic devices to set rents or manage occupancy levels" for residences. San Jose is considering a similar approach.

And California and seven other states have also joined the federal prosecutors' antitrust suit, which targets the leading rent-pricing platform, Texas-based RealPage. The complaint alleges that "RealPage is an algorithmic intermediary that collects, combines, and exploits landlords' competitively sensitive information. And in so doing, it enriches itself and compliant landlords at the expense of renters who pay inflated prices..."

But state lawmakers this year failed to advance legislation by Bakersfield Democratic Sen. Melissa Hurtado that would have banned the use of any pricing algorithms based on nonpublic data provided by competing companies. She said she plans to bring the bill back during the next legislative session because of what she described as ongoing harms from such algorithms.



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"We've got to make sure the economy is fair and ... that every individual who wants a shot at creating a business has a shot without being destroyed along the way, and that we're also protecting consumers because it is hurting the pocketbooks of everybody in one way or another," said Hurtado.

RealPage has been a major impetus for all of the actions. The company counts as its customers landlords with thousands of apartment units across California. Some officials accuse the company of thwarting competition that would otherwise drive rents down, exacerbating the state's housing shortage and driving up rents in the process.

"Every day, millions of Californians worry about keeping a roof over their head and RealPage has directly made it more difficult to do so," said California Attorney General Rob Bonta in a written statement.

A RealPage spokesperson, Jennifer Bowcock, told CalMatters that a lack of housing supply, not the company's technology, is the real problem — and that its technology benefits residents, property managers, and others associated with the rental market. The spokesperson later wrote that a "misplaced focus on nonpublic information is a distraction... that will only make San Francisco and San Diego's historical problems worse."

As for the federal lawsuit, the company called the claims in it "devoid of merit" and said it plans to "vigorously defend ourselves against these accusations."

"We are disappointed that, after multiple years of education and cooperation on the antitrust matters concerning RealPage, the (Justice Department) has chosen this moment to pursue a lawsuit that seeks to scapegoat pro-competitive technology that has been used responsibly for years," the company's statement read in part. "RealPage's revenue management software is purposely built to be legally compliant, and we have a long history of working constructively with the (department) to show that."

The company's challenges will only grow if pricing software becomes another instance in which California lawmakers lead the nation. Following San Francisco's ban, the Philadelphia City Council passed a ban on algorithmic rental price-fixing with a veto-proof vote last month. New Jersey has been considering its own ban.

### **Is It Price-fixing — or Coaching Landlords?**

According to federal prosecutors, RealPage controls 80% of the market for commercial revenue management software. Its product is called YieldStar, and its successor is AI Revenue Management, which uses much of the same codebase as YieldStar, but has more precise forecasting. RealPage told CalMatters it serves only 10% of the rental markets in both San Francisco and San Diego, across its three revenue management software products.

Here's how it works:

In order to use YieldStar and AIRM, landlords have historically provided RealPage with their own private data from their rental applications, rent prices, executed new leases, renewal offers and acceptances, and estimates of future occupancy, although a recent change allows landlords to choose to share only public data.

This information from all participating landlords in an area is then pooled and run through mathematical forecasting to generate pricing recommendations for the landlords and for their competitors.

San Diego City Council President Sean Elo-Rivera, explained it like this:

"In the simplest terms, what this platform is doing is providing what we think of as that dark, smoky room for big companies to get together and set prices," he said. "The technology is being used as a way of keeping an arm's length from one big company to the other. But that's an illusion."

In the company's own words, from company documents included in the lawsuit, RealPage "ensures that (landlords) are driving every possible opportunity to increase price even in the most downward trending or unexpected conditions." The company also said in the documents that it "helps curb (landlords') instincts to respond to down-market conditions by either dramatically lowering price or by holding price."

Providing rent guidance isn't the only service RealPage has offered landlords. In 2020, a Markup and New York Times investigation found that RealPage, alongside other companies, used faulty computer algorithms to do automated background checks on tenants. As a result, tenants were associated with criminal charges they never faced, and denied homes.

### **Impact on Tenants**

The attorneys general of eight states, including California, joined the Justice Department's antitrust suit, filed in U.S. District Court for the Middle District of North Carolina.

The California Justice Department contends RealPage artificially inflated prices to keep them above a certain minimum level, said department spokesperson Elissa Perez. This was particularly harmful given the high cost of housing in the state, she added. "The illegally maintained profits that result from these price alignment schemes come out of the pockets of the people that can least afford it."

Renters make up a larger share of households in California than in the rest of the country — 44% here compared to 35% nationwide. The Golden State also has a higher percentage of renters than any state other than New York, according to the latest U.S. Census data.

The recent ranks of California legislators, however, have included few renters: As of 2019, CalMatters could find only one state lawmaker who did not own a home — and found that more than a quarter of legislators at the time were landlords.

### **The State Has Invested in RealPage**

Private equity giant Thoma Bravo acquired RealPage in January 2021 through two funds that have hundreds of millions of dollars in investments from California public pension funds, including the California Public Employees' Retirement System, the California State Teachers' Retirement System, the Regents of the University of California and the Los Angeles police and fire pension funds, according to Private Equity Stakeholder Project.

"They're invested in things that are directly hurting their pensioners," said K Agbebiyi, a senior housing campaign coordinator with the Private Equity Stakeholder Project, a nonprofit private equity watchdog that produced a report about corporate landlords' impact on rental hikes in San Diego.

RealPage argues that landlords are free to reject the price recommendations generated by its software.

RealPage argues that landlords are free to reject the price recommendations generated by its software. But the U.S. Justice Department alleges that trying to do so requires a series of steps, including a conversation with a RealPage pricing adviser. The advisers try to "stop property managers from acting on emotions," according to the department's lawsuit.

If a property manager disagrees with the price the algorithm suggests and wants to decrease rent rather than increase it, a pricing advisor will "escalate the dispute to the manager's superior," prosecutors allege in the suit.



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