

City of San Leandro
Community Development Department
Housing Services Division
Staff Report

DATE: March 27, 2017
TO: Rules Committee
FROM: Cynthia Battenberg, Community Development Director
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SUBJECT: Proposed Tenant Relocation Assistance Program

BACKGROUND AND ANALYSIS

As directed by the City Council, staff has been working to develop a Tenant Relocation Assistance program to protect San Leandro's tenants from displacement resulting from rising rents and landlord-caused terminations. To date, tenant relocation assistance has been discussed by the Rules Committee on June 27 and July 25, 2016 and February 27, 2017 and by the City Council on September 6, 2016. Staff has also held numerous meeting with both tenant and landlord stakeholder groups this past year. A revised Tenant Relocation Assistance Program Ordinance with redline edits is attached as Exhibit A.

Below is a summary of key modifications to the ordinance based on the Rules Committee's and public input. Modifications are reflected as underlined and ~~strikeout~~ text.

Section 4-36-200 (f) (proposed rent increase)

To provide greater protection for tenants facing exorbitant rent increases, the proposed language decreases the rental increase percentage threshold from 20% to 15%.

Section 4-36-200(f) has been revised as follows:

A landlord-caused termination also includes the circumstance where a landlord provides a proposed rent increase, or proposed rent increases, that raises the rent to an amount more than ~~twenty-fifteen~~ percent (~~20~~15%) greater than the base rent during a twelve (12) month period and the tenant elects to not remain in the residential property. This excludes circumstances where the proposed rent increase is rescinded by the landlord and~~This~~—excludes residential properties where landlords may establish the initial and all subsequent rental rates for a residential property pursuant to California Civil Code Section 1954.52.

Section 4-36-200(f) "Landlord-caused termination"

Circumstance #5 of improper tenant actions which would not be covered has been deleted as this violation can be assessed under circumstance #2 "Breach of rental contract". Furthermore, the City does not enforce occupancy restriction standards in rental properties.

Section 4-36-200(f) has been revised as follows:

- (1) Failure to pay rent. Tenant failed to pay rent within three days of receiving written notice from the landlord demanding payment in accordance with California Code of Civil Procedure Section 1161.
- (2) Breach of rental contract. Tenant violated a material term of the rental agreement with the landlord for occupation of residential property.
- (3) Tenant illegal activities. Tenant has used the residential property for an illegal purpose, including but not limited, to the unlawful distribution of a controlled substance as contemplated by California Civil Code Section 3486, or the unlawful use, manufacture, or possession of weapons and ammunition as contemplated by California Civil Code Section 3485.
- (4) Failure to allow landlord access. Tenant failed to allow landlord access to the residential property, after receiving due notice as required by California Civil Code Section 1954.
- ~~(5) Tenant violated occupancy restriction. Tenant failed to abide by the long term occupancy restrictions of the rental agreement with the landlord for occupancy of residential property (i.e. tenant allowed long term occupancy of the unit by one or more individuals who were not previously contemplated in the rental agreement), but only when the unapproved, long-term occupants of the residential property would cause the number of persons living in the residential room in the residential property plus one.~~

Section 4-36-200(k) “Special-Circumstances Household”

Language has been added for clarification purposes to ensure that only current tenants residing in the residential property are assessed for eligibility for compensation.

Section 4-36-200(k) has been revised as follows:

SPECIAL-CIRCUMSTANCES HOUSEHOLD means a tenant occupying residential property with any of following characteristics at the time of notice of a landlord-caused termination:

Section 4-36-200(l) “Tenant”

The requirement that tenants must be a tenant of five or more years in order to be eligible for relocation assistance has been eliminated. The proposed program would apply to all eligible tenants regardless of the length of their tenancy. This addresses concerns regarding landlords’ termination of tenants’ tenancy prior to eligibility for relocation compensation.

Section 4-36-200(l) has been revised as follows:

TENANT means any person having the legal responsibility for the payment of rent for residential property in the City as identified under a valid lease or rental agreement with a landlord ~~for five~~ ~~(5) consecutive years or more.~~

Section 4-36-310(a) “Procedures for relocation assistance payment”

The text regarding a landlord’s ability to deduct from the relocation assistance payable to a tenant for unpaid rent has been eliminated as this provision contradicts section 4-36-200(f)(1) which stipulates that a tenant’s failure to pay rent disqualifies a tenant’s eligibility for relocation compensation.

Section 4-36-310(a) has been revised as follows:

(a) The entire relocation assistance amount shall be paid to the tenant. If the residential property is occupied by two (2) or more individuals, then relocation assistance shall be paid to the individual entitled to occupy the residential property under the lease or rental agreement; provided, however, if the tenant receives, as part of the eviction, relocation assistance from a governmental agency, then the amount of that relocation assistance shall operate as a credit against any relocation assistance to be paid the tenant. ~~Landlord may deduct from the relocation assistance payable any and all past due rent owed by tenant during the twelve months prior to termination of tenancy.~~

Section 4-36-310(b) Timing of Payment

The proposed “payout” schedule was also revised to assist tenants with moving costs typically required to secure new housing. Language was also added regarding timing of payment and reimbursement of relocation compensation should a tenant choose to remain in the unit and pay the rent increase.

Section 4-36-310(b) has been revised as follows:

(b) After taking into account any adjustments in the amount of the relocation assistance under section 4-36-310(a), the landlord shall pay one half of the relocation assistance no later than five business days following service of the notice to a tenant of landlord-caused termination and one half of the relocation assistance no later than the last day of tenancy for which the landlord has received rent. For landlord-caused terminations where a landlord provides a proposed rent increase, or proposed rent increases, that raise the rent to an amount more than fifteen percent (15%) greater than the base rent during a twelve (12) month period and the tenant elects to not remain in the residential property, the landlord shall pay one half of the relocation assistance no later than five business days following receipt of written notice that the tenant intends to vacate the residential property and one half of the relocation assistance no later than the last day of tenancy for which the landlord has received rent. If the tenant ultimately fails to vacate the residential property following a landlord-caused termination where a landlord provides a proposed rent increase, or proposed rent increases, that raise the rent to an amount more than fifteen percent (15%) greater than the base rent during a twelve (12) month period, the tenant shall reimburse relocation assistance to the landlord.

Section 4-36-310(c)

Language was added to this section to protect tenants from fraud, intimidation, or coercion that includes threats based on immigration status. This provision ensures that both tenant and landlord are able to mutually negotiate in good faith.

Section 4-36-310(c) has been revised as follows:

(c) Nothing provided herein prohibits a landlord and a tenant from agreeing to relocation assistance different than as provided in this section. A landlord shall not attempt to influence a tenant to agree to relocation assistance different than as provided in this section in bad faith by means of fraud, intimidation, or coercion (including, but not limited to, threats based on immigration status).

Section 4-36-400 “Landlord notice of termination to the City”

A provision was added to require landlords to provide the City with a copy of the notice of termination for landlord-caused terminations that they provide to their tenants to document landlord compliance with the Ordinance. The annual program fee of \$10 per unit to be paid by landlords was also eliminated. The “Program Administration” section below discusses staff and budget impacts to the City.

Section 4-36-400 has been revised as follows:

The landlords must provide a copy of the notice of termination for landlord-caused terminations and a copy of the notice of entitlement to relocation assistance to the Community Development Director within ten (10) days of delivery to the tenant. This requirement shall not apply to landlord-caused terminations where a landlord provides a proposed rent increase, or proposed rent increases, that raise the rent to an amount more than fifteen percent (15%) greater than the base rent during a twelve (12) month period and the tenant elects to not remain in the residential property.

Program Fee.

~~Landlords shall pay an annual program fee for each residential property occupied by a tenant to cover the costs to administer this Chapter. The program fee shall be established from time to time by resolution of the City Council and shall be included within the City’s Master Fee Schedule. The fee shall be calculated so as to recover the cost of administration of this Chapter, including, for example, providing educational materials, staff time and legal advice provided to staff, but shall not exceed the cost of the program authorized by this Chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law. Residential properties with affordability covenants (e.g. tax credits or HUD-financed) are not required to pay the program fee.~~

Section 4-36-405 “Failure to comply”

Language was added to stipulate a landlord’s ability to pursue legal remedies in order to recoup any reimbursements owed by a tenant who has decided to remain in the unit and pay a rent increase greater than 15% rather than vacate the unit and be entitled to relocation assistance.

Section 4-36-405 has been revised as follows:

A landlord’s failure to comply with any requirement of this Chapter may be asserted as an affirmative defense in an action brought by the landlord to recover possession of the residential property. Additionally, any attempt to recover possession of a residential property in violation of this Chapter shall render the landlord liable to the tenant for actual and punitive damages, including damages for emotional distress, in a civil action for wrongful eviction. The tenant may also seek injunctive relief and money damages for wrongful eviction and/or failure to pay relocation assistance fees. ~~The prevailing party in an action for wrongful eviction and/or failure to pay relocation fees shall recover costs and reasonable attorneys’ fees. A landlord may seek money damages for a tenant’s failure to reimburse relocation assistance if the tenant ultimately fails to vacate the residential property following a landlord-caused termination where a landlord provides a proposed rent increase, or proposed rent increases, that raise the rent to an amount more than fifteen percent (15%) greater than the base rent during a twelve (12) month period. The prevailing party in an action for wrongful eviction and/or failure to pay relocation assistance or reimburse relocation assistance shall recover costs and reasonable attorneys’ fees.~~

PROGRAM ADMINISTRATION

The implementation and administration of the proposed ordinance will require additional resources to handle landlord notices of termination, address inquiries/concerns from both tenant and landlords, develop and distribute outreach materials in multiple languages and provide technical assistance. These costs were originally proposed to be offset by an annual \$10 per rental unit fee to be paid by landlords. Without this annual fee, additional resources will need to be identified in the form of part-time staff or consultants. Staff estimates that the cost to the City would be \$65,000 - \$95,000.

PUBLIC NOTICE

Notification of the March 27, 2017 Rules Committee meeting was emailed and/or mailed to over 300 renters (including past and current Rent Review Board applicants), landlords and other interested stakeholders on the City's distribution list regarding the proposed tenant relocation assistance program. Notice was also posted on the local online neighborhood forum, Nextdoor.