



# City of San Leandro

Meeting Date: September 6, 2016

## Presentation

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**File Number:** 16-436

**Agenda Section:** PRESENTATIONS

**Agenda Number:** 3.C.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** Presentation of Proposed Tenant Relocation Assistance Program

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### **BACKGROUND AND DISCUSSION**

Based on public testimony about escalating rents and displacement of tenants in San Leandro, the City Council directed the City Council Rules Committee to work with staff to develop recommendations for a tenant relocation assistance program. Draft program policies have been developed and staff looks forward to receiving further input from the City Council tonight including direction on next steps (i.e., public outreach, return to the City Council Rules Committee or City Council, etc.).

In order to address tenant concerns about escalating rents and tenant displacement, the City Council Rules Committee, at its April and July 2016 meetings, discussed potential policies for a Tenant Relocation Assistance Program.

#### *Overview of Tenant Relocation Assistance Program Components*

The Rules Committee determined that the purpose of the program was to protect San Leandro's long-term tenants from displacement resulting from the impacts of rising rents and landlord-caused terminations. Staff researched policy options for tenant protection measures including research on such programs in neighboring jurisdictions. With the City Attorney's Office, staff presented a draft Tenant Relocation Assistance Ordinance (see attachment) for the Committee's review, feedback, and public comment.

#### *Eligibility*

The proposed Tenant Relocation Assistance Ordinance would require landlords to provide tenants relocation assistance payments when the termination of tenancy is landlord-caused. Landlord-caused terminations include:

1. Without cause in accordance with California Civil Code section 1946.1
2. Owner move-in.

3. Demolition.
4. Capital Improvement.

Tenants must meet all three criteria below for relocation assistance eligibility:

1. Termination of tenancy is landlord-caused as described above.
2. A tenant of five or more years.
3. Rental unit is in a parcel containing two or more tenant-occupied housing units.

#### *Relocation Payment*

Relocation assistance would be made in payments equivalent to:

1. Two month's rent, plus
2. Moving expenses equivalent to one month's rent, plus
3. One Thousand Dollars (\$1,000) for special-circumstances households.

A special-circumstances tenant household has any of the following characteristics:

1. At least one member is 62 years or older;
2. At least one member qualifies as disabled;
3. Is a household with one or more minor dependent children ( $\leq$  18 years of age).

#### *Noticing*

Other important provisions of the proposed ordinance include that landlords must provide tenants a 90-day Notice to Terminate Tenancy (California only requires a 60-days' notice) as well as a Notice of Entitlement to Relocation Assistance that informs tenants about the Tenant Relocation Assistance Ordinance. The Notice of Entitlement to Relocation Assistance would mirror the Required Notice for Rent Review under the City's rent review Ordinance.

#### *Financial Impact*

In order to minimize the impact to the City's General Fund, the ordinance would impose an annual program fee to be paid by landlords. The fee would cover the administrative costs of the program, including the provision of educational materials and staff time. Staff recommends that the per unit fee also cover costs associated with tenant-landlord counseling and Rent Review Board administration. The approximate fee is estimated to be \$10 per unit annually during years when there is activity. Residential properties with affordability covenants (e.g. tax credits or HUD-financed) would be exempt from paying the program fee.

#### *Rules Committee Recommendations*

The Rules Committee generally supported the proposed DRAFT Tenant Relocation Assistance Ordinance. However, the Rules Committee recommended that landlords should provide tenants with a 120-day Notice of Termination of Tenancy. The Rules Committee also expressed its desire to seek further input from the City Council and the public.

#### **ATTACHMENT**

Draft Tenant Relocation Assistance Ordinance

**PREPARED BY:** Steve Hernandez, Housing Specialist II, Community Development

Department

# EXHIBIT A

## Chapter 4.35

### TENANT RELOCATION ASSISTANCE

#### Article 1. Purpose

##### 4-35-100 Purpose.

In enacting these regulations the City Council recognizes the need to protect long-term tenants and tenant households in need from the adverse health, safety and economic impacts of displacement. It is the purpose and intent of the City Council to mitigate such impact on these residents consistent with this Chapter.

#### Article 2. Definitions

##### 4-35-200 Definitions.

For the purpose of this Chapter, unless otherwise apparent from the context, certain words and phrases used in this Chapter are defined as follows:

(a) **CAPITAL IMPROVEMENT** means an improvement or repair to a residential property that materially adds to the value of the property, appreciably prolongs the property's useful life or adapts the property to a new use, and has a useful life of more than one (1) year and that is required to be amortized over the useful life of the improvement under the straight line depreciation provisions of the Internal Revenue Code and the regulations issued pursuant thereto.

(b) **CITY** means the City of San Leandro.

(c) **COMMUNITY DEVELOPMENT DIRECTOR** means the Director of the Community Development Department of the City of San Leandro, or his or her designated representative.

(d) **COUNCIL** means the City Council of the City of San Leandro.

(e) **LANDLORD** means any person, partnership, corporation, or other business entity offering for rent or lease any residential property in the City. "Landlord" shall include the agent or representative of the landlord, provided that such agent or representative shall have full authority to answer for the landlord and enter into binding agreements on the landlord's behalf.

(f) **LANDLORD-CAUSED TERMINATION** means a landlord taking action to terminate the tenancy of a tenant occupying residential property under the following circumstances:

(1) No cause. Any termination of tenancy pursuant to Civil Code Section 1946.1.

(2) Owner move-in. The landlord seeks in good faith to recover possession of the residential property for use and occupancy as a primary residence by the landlord, or the landlord's spouse, domestic partner, children, parents, grandparents, grandchildren, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law. For purposes of this section a landlord shall only include a landlord that is a natural person who has at least a fifty (50%) percent ownership interest in the residential property. A natural person means a human being but may also include a living trust, family trust or similar trust where the natural person is identified in the title of the trust.

(3) Demolition. The landlord seeks to terminate a tenancy to demolish the residential property and remove the property permanently from residential rental housing use.

(4) Capital improvement. The landlord seeks to terminate a tenancy in order to carry out a capital improvement.

(g) **RENT** means the amount of compensation paid by a tenant to a landlord for the possession and use of residential property for the month immediately preceding the serving of a notice to vacate, including any amount paid to the landlord for parking, storage, utilities, water, garbage, or any other fee or charge associated with the tenancy.

(h) **RESIDENTIAL PROPERTY** means any housing unit offered for rent or lease in the City, provided that such housing unit is in a parcel that contains two (2) or more tenant-occupied housing units, and mobile homes. Mobile homes are subject to this Chapter only if a tenant rents the mobile housing unit itself.

(i) **SPECIAL-CIRCUMSTANCES HOUSEHOLD** means a tenant or tenants with any of the following characteristics:

(1) At least one (1) member is sixty-two (62) years of age or older;

(2) At least one (1) member qualifies as disabled as defined by Title 42, United States Code, No. 423 or handicapped as defined by California Health and Safety Code Section 50072; or

(3) Is a household with one (1) or more minor children (under eighteen (18) years of age) who are legally dependent (as determined for federal income tax purposes).

(j) **TENANT** means any person having the legal responsibility for the payment of rent for residential property in the City and includes any person or group of persons entitled to occupy the residential property under a valid lease or rental agreement with a landlord for five (5) consecutive years or more.

### Article 3. Requirement to provide relocation assistance

#### 4-35-300 Requirement to provide relocation assistance.

No landlord shall cause a landlord caused termination of a tenancy of a tenant without paying relocation assistance in accordance with this Chapter.

#### 4-35-305 Relocation assistance.

The landlord shall provide relocation assistance, where required by section 4-35-300, to an eligible tenant in accordance with each of the following requirements:

(a) A relocation fee which shall be the cash equivalent of two (2) months' rent.

(b) Moving expenses which shall be the cash equivalent of one (1) month rent.

(c) One Thousand Dollars (\$1,000) for special-circumstances households.

#### 4-35-310 Procedures for relocation assistance payment.

The landlord shall pay relocation assistance as follows:

(a) The entire relocation assistance amount shall be paid to a tenant who is the only tenant of the residential property. If the residential property is occupied by two (2) or more tenants, then each tenant who is on the lease shall be paid a pro-rata share of the relocation assistance; provided, however, if a tenant or tenants receive, 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 to the tenant(s). 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.

(b) After taking into account any adjustments in the amount of the relocation assistance under section 4-35-310(a), the landlord shall pay one-half (½) of the applicable relocation assistance payment when the tenant has informed the landlord in writing of the date when the tenant will vacate the residential property and the other half upon certification that the tenant has vacated the residential property on the date provided in the notice.

(c) Nothing provided herein prohibits a landlord and a tenant from agreeing to relocation assistance different than as provided in this section, provided the landlord and tenant provide to the Community Development Director written proof of the alternative relocation assistance within twenty-one (21) days of the tenant's vacating the residential property.

#### 4-35-315 Notice of termination and notice of entitlement to relocation assistance.

Landlord shall provide a written notice of termination to all tenants subject to termination of tenancy from a residential property required by State law at least ninety (90) days prior to the date a tenant must vacate the residential property. Written notice of tenant's entitlement to relocation assistance shall be provided by the landlord at the same time that the landlord provides notice of termination of tenancy from a residential property. Such notice of entitlement to relocation assistance shall be posted on the door to the residential property and sent certified mail, or personally served upon tenant, and shall be provided in the three (3) predominant languages spoken in the City. The City Manager or his designee shall determine the predominant languages spoken in the City.

#### 4-35-320 Text of notice.

The notice of entitlement to relocation assistance shall state:

NOTICE: Under Title 4, Chapter 35 of the San Leandro Municipal Code, a landlord must provide tenants that have occupied residential property under a valid lease or rental agreement with a landlord for five (5) consecutive years or more with ninety (90) days' notice prior to termination of tenancy. At the same time the landlord provides a qualifying tenant with notice of termination of tenancy, the landlord must provide this notice of the tenant's entitlement to relocation assistance. Qualifying tenants are entitled to the following forms of relocation assistance: (a) A relocation fee which shall be the cash equivalent of two (2) months' rent; (b) Moving expenses which shall be the cash equivalent of one (1) month rent; and (c) One Thousand Dollars (\$1,000) for special-circumstances households. Special-circumstances households include the following: (1) At least one (1) member is sixty-two (62) years of age or older; (2) At least one (1) member qualifies as disabled as defined by Title 42, United States Code, section 423 or handicapped as defined by California Health and Safety Code Section 50072; or (3) Is a household with one (1) or more minor children (under eighteen (18) years of age) who are legally dependent (as determined for federal income tax purposes). Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

#### 4-35-320 Retaliation prohibited.

Commencement of eviction proceedings against a tenant for exercising his or her rights under this Chapter shall be considered a retaliatory eviction. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

## Article 4 Enforcement

### 4-35-400 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.

### 4-35-405 Landlord's failure to comply.

A landlord's failure to comply with any requirement of this Article 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 seek injunctive relief and money damages for wrongful eviction. The prevailing party in an action for wrongful eviction shall recover costs and reasonable attorneys' fees.

## Article 5. Miscellaneous

### 4-35-500 Annual Review.

The Community Development Director shall annually prepare a report to the City Council assessing the effectiveness of the relocation assistance program established under this Chapter and recommending changes as may be appropriate.