



City of Palo Alto

City Council Staff Report

(ID # 10879)

Report Type: Action Items

Meeting Date: 12/2/2019

Summary Title: Colleagues' Memo Regarding Urgency Ordinance Regarding Renter Protections

Title: Colleagues' Memo From Council Members Kou and DuBois and Potential Adoption of an Urgency Ordinance to Provide Just Cause Eviction Protections to Tenants Until California State Assembly Bill 1482 Takes Effect on January 1, 2020 (Continued From November 18, 2019)

From: City Manager

Lead Department: City Clerk

Goals

To temporarily prohibit no-fault evictions through December 31, 2019, for all residential real property that will be covered by Assembly Bill 1482 beginning on January 1, 2020.

Background and Discussion:

Assembly Bill 1482, the Tenant Protections Act of 2019, was signed by Governor Newsom on October 8, 2019. Escalating real estate values with the assistance of the deregulation of zoning provides an incentive to landlords to evict long-term, lower-income tenants, in order to raise rents and attract wealthier tenants, reducing the local diversity socio-economic of Palo Alto's population. It has been reported, since the anticipation of the Tenant Protection Act of 2019 legislation, there has been an escalation of harassment by landlords in order to encourage tenants to move out voluntarily. However, since the Governor's signing of the legislation, there is a surge of calls and inquiries from community advocates and tenants facing steep rent increases, some as much as 30% rent increase and facing evictions, also facing increases in costs of parking, lock services and other bundled amenities. While landlords may properly evict tenants for cause under the provision of state law, landlords should not be able to evict tenants in good standing without cause simply to avoid the limitation on rent-gouging afforded to renters under the new law. Hence, it is imperative for the City of Palo Alto to issue an emergency ordinance to keep people housed and provide a sense of stability.

Proposal

Request the City Attorney to report on:

1. An emergency ordinance implementing a temporary moratorium on no-fault evictions for rental units built prior to January 1, 2012, effective through December 31, 2019.
2. The use State of California price gouging laws to prevent prohibitive rent increases before Assembly Bill 1482 takes effect on January 1, 2020.
3. This emergency ordinance shall apply to tenancies where the tenant remains in possession and the eviction lawsuit has not been adjudicated.

Direct City Manager staff to:

1. Inform Palo Alto rental residents of legal resources to help them address any disputes with their landlords.
2. Inform property owners and landlords of rental property of their obligations under Assembly Bill 1482 and any locally-established ordinances.

Resource Impact

Due to the short timeframe to adopt tenant protections (through January 1, 2020), existing resources in the City Manager’s Office, City Attorney’s Office and Planning and Development Services are being redirected to draft an ordinance for the Council’s consideration on November 18th. Also due to the short timeframe, any outreach on a potential urgency ordinance will be limited to electronic (email and social media) distribution methods.

If the Council adopts an ordinance, some staff resources will be needed for public outreach and education regarding the rights and responsibilities of landlords and tenants, responding to public inquiries, and making referrals. Tenant protections are enforced by tenants in private litigation with their landlords. The City does not investigate alleged violations or adjudicate tenant-landlord disputes. This is true for protections provided by a temporary City ordinance (before January 1st) as well as by AB 1482 (after January 1st). The City provides voluntary mediation services through Project Sentinel and can refer tenants to other resources, such as non-profit legal services agencies.

Appendices:

Report by City of Los Angeles City Attorney http://clkrep.lacity.org/onlinedocs/2019/19-1232_misc_10-22-2019.pdf

City of Los Angeles Draft Ordinance http://clkrep.lacity.org/onlinedocs/2019/19-1232_ord_draft_10-22-2019.pdf

City of Los Angeles Final Ordinance http://clkrep.lacity.org/onlinedocs/2019/19-1232_ORD_186340_10-24-2019.pdf

City of Redwood City Draft Ordinance
<https://meetings.redwoodcity.org/AgendaOnline/Documents/ViewDocument/ATTACHMENT%20B%20-%20URGENCY%20ORDINANCE.pdf?meetingId=2048&documentType=Agenda&itemId=2741&publishId=4267&isSection=false>

Attachments:

- Attachment A: Urgency Ordinance

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Ordinance No. _____

Urgency Ordinance of the Council of the City of Palo Alto
Temporarily Prohibiting Evictions without Just Cause through
December 31, 2019, for Residential Real Property Built Prior to
January 1, 2005

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

- A. The “Tenant Protection Act of 2019” (Assembly Bill [“AB”] 1482) was approved by the California Legislature on September 11, 2019 and signed by the Governor on October 8, 2019; and
- B. Effective January 1, 2020 the Tenant Protection Act of 2019 codified as California Civil Code sections 1946.2 (Just Cause Eviction) and 1947.12 (Rent Caps) will provide eviction protections and limits on rent increases in the State of California; and
- C. The City Council, pursuant to its police powers, has broad authority to maintain public peace, health, and safety of its community and preserving the quality of life for its residents; and
- D. Housing instability threatens the public peace, health, and safety as eviction from one’s home can lead to prolonged homelessness; increased residential mobility; loss of community; strain on household finances due to the necessity of paying rental application fees and security deposits; stress and anxiety experienced by those displaced; increased commute times and traffic impacts if displaced workers cannot find affordable housing within the city in which they work; and interruption of the education of children in the home; and
- E. Eviction creates particular hardships for individuals and households of limited means, given the shortage of housing, particularly affordable housing, within the City of Palo Alto and the San Francisco Bay Area region generally; and
- F. As AB 1482 does not go into effect until January 1, 2020, landlords could seek to evict tenants without cause in order to implement rent increases that would not otherwise be possible after the effective date; and
- G. The City desires to prohibit evictions without just cause during this transition period; and
- H. The City Council finds and determines that regulating the relations between residential landlords and tenants will increase certainty and fairness within the residential

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rental market in the City and thereby serve the public peace, health, and safety; and

I. Palo Alto Municipal Code Section 2.04.270 authorizes the adoption of an urgency ordinance to protect the public peace, health or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by four-fifths of Council Members present; and

J. This urgency ordinance would essentially establish the just cause eviction protections that will go into effect on January 1, 2020 under AB 1482 immediately within the City of Palo Alto; and

K. An urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in the displacement of the City's residents and community members.

SECTION 2. Just Cause Eviction Protections.

This urgency ordinance shall be known as the "Just Cause Eviction Protection Ordinance."

- (a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for 12 months, the owner of the residential real property shall not terminate the tenancy without just cause, which shall be stated in the written notice to terminate tenancy.
- (b) For purposes of this Ordinance, just cause includes either of the following:
 - 1. At-fault just cause, which is any of the following:
 - (A) Default in the payment of rent.
 - (B) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation.
 - (C) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
 - (D) Committing waste as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
 - (E) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the Penal Code, on or off the residential real

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property, that is directed at any owner or agent of the owner of the residential real property.

- (F) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
 - (G) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of the Civil Code, and Sections 13113.7 and 17926.1 of the Health and Safety Code.
 - (H) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
 - (I) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the Code of Civil Procedure.
 - (J) When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the Code of Civil Procedure.
2. No-fault just cause, which includes any of the following:
- (A) Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.
 - (B) Withdrawal of the residential real property from the rental market.
 - (C) The owner complying with any of the following:
 - (i) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.
 - (ii) An order issued by a government agency or court to vacate the residential real property.
 - (iii) A local ordinance that necessitates vacating the residential real property.
 - (D) Intent to demolish or substantially remodel the residential real property. For purposes of this subparagraph, "substantially remodel" means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or

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the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable Federal, State, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

(E) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

(c) This section shall not apply to the following types of residential real properties or residential circumstances:

1. Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the Civil Code.
2. Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.
3. Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
4. Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.
5. Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.
6. A duplex in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.
7. Housing that has been issued a certificate of occupancy within the previous 15 years.
8. Residential real property that is alienable separate from the title to any other dwelling unit, provided that the owner is not any of the following:
 - (A) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.
 - (B) A corporation.

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- (C) A limited liability company in which at least one member is a corporation.
9. Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.
- (d) Any waiver of the rights under this section shall be void as contrary to public policy.
- (e) For the purposes of this Ordinance, the following definitions shall apply:
1. "Owner" and "residential real property" have the same meaning as those terms are defined in Civil Code Section 1954.51.
 2. "Tenancy" means the lawful occupation of residential real property and includes a lease or sublease.
- (f) Applicability. This Ordinance shall apply to tenancies where the tenant remains in possession of the residential real property and an eviction lawsuit, if any, has not been finally adjudicated.
- (g) Statement of Urgency. The City Council finds and declares that this Ordinance is required for the immediate protection of the public peace, health and safety as failure to adopt this urgency ordinance could result in irreversible displacement of residents resulting from no-fault evictions during the period before AB1482 becomes effective. The Council, therefore, adopts this Ordinance to become effective immediately upon adoption.
- (h) Enforcement. An owner's failure to comply with any requirement of this Ordinance shall render any notice of termination of tenancy void. A tenant may assert this Ordinance as a complete affirmative defense in an unlawful detainer or other action brought by the owner to recover possession of the residential real property. A tenant may bring a civil suit in the courts of the state alleging that an owner has violated any of the provisions of this ordinance. An owner's failure to comply with this Ordinance does not constitute a criminal offense.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

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SECTION 4. The Council finds that this project is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Section 15061 of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION 5. This ordinance shall be effective immediately upon adoption and shall remain in effect until December 31, 2019. On January 1, 2020, this ordinance shall be repealed and shall be of no further force and effect.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

City Attorney

City Manager

Director of Administrative Services