



# Agenda Report

<b>TO:</b>	Honorable Mayor, City Council & Members of the Public	<b>FROM:</b>	Nikki Fortunato Bas Council President Councilmember, District 2
			Kevin Jenkins Councilmember, District 6
<b>SUBJECT:</b>	Just Cause Amendment Requiring Actual Injury For Breach Of Lease Evictions	<b>DATE:</b>	May 25, 2023

## RECOMMENDATION

Council President Bas and Councilmember Jenkins Respectfully Request That The City Council: **Approve An Ordinance Amending The Just Cause For Eviction Ordinance** (Oakland Municipal COde 8.22.360) **To Require Landlords To Demonstrate Substantial Actual Injury Before Evicting Tenants For Breach Of Lease**

## EXECUTIVE SUMMARY

This proposed ordinance would amend the Just Cause For Eviction Ordinance to require Landlords to demonstrate substantial actual injury before evicting tenants for breach of lease. This proposal will help avoid a surge of evictions leading to an increase in homelessness. The purpose of this amendment is to limit pretextual evictions and evictions based on trivial or technical violations, with the understanding that not all lease violations justify forfeiture of a tenant’s rental agreement.

## BACKGROUND / LEGISLATIVE HISTORY

On November 5, 2002, Oakland voters passed the Just Cause for Eviction Ordinance (Measure EE), codified in Chapter 8.22, Article II of the Oakland Municipal Code, establishing various tenant protections and procedures pertaining to residential evictions in Oakland. The Just Cause for Eviction Ordinance plays a crucial role in the City’s ongoing efforts to slow, reduce, and prevent displacement and homelessness within the City of Oakland and authorizes City Council to modify the Ordinance for the purpose of adding limitations on a landlord's right to evict.

Revisions to the Just Cause Eviction Ordinance have been made since then 2002, including Measure JJ in 2016, which extended just cause protection to tenants in residential rental units first offered for rent between October 14, 1980, and December 31, 1995. On November 6, 2018, Oakland voters passed Measure Y to amend the Just Cause for Eviction Ordinance. Measure Y removed the exemption for owner-occupied duplexes and triplexes and gave the City Council authority to add eviction protections. On November 8, 2022, voters passed Measure V, which expanded the Just Cause for Eviction Ordinance to apply to all residential rental units built after December 31, 1995 and residential vehicular facilities, with the exception of ground-up new construction units that have received a Certificate of Occupancy within the past 10 years. It also prohibited “no-fault” evictions from going into effect during the school year, if the household includes school-age children or educators employed by the Oakland Unified School District, and finally it removed failure to sign a new lease as a ground for eviction. The City Council most recently amended the Just Cause for Eviction Ordinance on May 2, 2023, to further limit landlords' ability to evict tenants.

The increased housing pressures for residents across a range of lower and middle income levels warrants expanded rent stabilization and tenant protection policies. Displacement through evictions has a direct impact on the health, safety and/or welfare of Oakland’s residents by uprooting children from their schools and friends, disrupting long standing community networks that are integral to residents’ welfare, forcing lower income residents to pay unaffordable relocation costs, segregating low-income residents into less healthy, less safe, and more overcrowded housing that is often further removed from vital public services and leaving residents with unhealthy levels of stress and anxiety as they attempt to cope with the threat of homelessness. **Over 60 percent of occupied housing units in Oakland are occupied by renters**, many of whom would not be able to locate affordable housing within Oakland if displaced (U.S. Census Bureau, ACS 2016).

Oakland continues to experience a severe housing shortage and an unprecedented number of unhoused or marginally housed residents. The City Council finds that reasonable regulation of aspects of the landlord-tenant relationship is necessary to foster constructive communication, maintain an adequate supply of a variety of rental housing options, and protect the health, safety, and general welfare of the public.

### **ANALYSIS AND POLICY ALTERNATIVES**

Forfeiture of a rental agreement or breach of lease is a drastic legal remedy that should be pursued only in drastic circumstances. Rental agreements frequently contain a myriad of terms and restrictions, many of which are not negotiated by tenants, and it is reasonable to limit the extreme remedy of lease forfeiture to violations that are directly linked to a showing of harm, as opposed to lease violations that are trivial or do not otherwise rise to a level that should trigger the loss of housing.

### **Proposed Amendment to Just Cause Ordinance (JCO)**

To further protect tenants and promote housing stability, the underlined language would be added to the relevant sections of the Just Cause Ordinance. See the attached legislation for the full text.

2. The tenant has continued, after written notice to cease, to substantially violate a material term of the tenancy other than the obligation to surrender possession on proper notice as required by law. To establish a substantial violation of a material term of the tenancy, the landlord must demonstrate all of the following: (1) that the violation caused substantial actual injury to the landlord or to other residents; (2) that the tenant's conduct was unreasonable; and (3) that the term of tenancy is reasonable, legal, and was accepted in writing by the tenant.

d. Actual injury must be a direct result of the tenant's lease. Injury is not limited to personal or physical injury. Substantial actual injury includes but is not limited to the harm caused by a tenant's failure to comply with income recertification requirements for deed-restricted affordable housing units.

e. A notice to cease must state allegations in sufficient detail so that a reasonable person would understand the alleged violation and resultant injury, including the term of the lease allegedly violated, the date of the violation, and the injury that occurred as a result of the violation.

### **FISCAL IMPACT**

The City needs to prepare for the end of the eviction moratorium. Though we don't know the true impact on low-income households, we can assume and have seen data, such as the [\*California Divide\*](#)<sup>1</sup>, that predicts a wave of evictions and the need for financial support and services to prevent homelessness.

On May 24, 2023, the *Oaklandside* article [\*Evictions cases are rising fast after end of Alameda County moratorium\*](#) reported that "Alameda County's eviction ban [\*expired April 29\*](#). The 243 eviction lawsuits filed in the first 19 days of May are roughly quadruple the 65 filed in April, and the 57 in March." And note that Oakland, Berkeley and San Leandro still have our eviction moratoriums in place.

### **Staff Implementation**

Oakland's Housing and Community Development Department's Rental Adjustment Program is already conducting outreach and education on the July 15, 2023 end of the eviction moratorium and the new tenant protections, passed by City Council on May 2, 2023. This work includes:

- Website updates such as this page:  
<https://www.oaklandca.gov/news/2023/oakland-eviction-moratorium-phase-out>
- Updated FAQ and info sheets

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<sup>1</sup> <https://calmatters.org/projects/late-on-rent-how-california-renters-are-bracing-for-an-eviction-tsunami/>

- Mailers to property owners
- Digital notification campaign between June through August
- Video on rights and responsibilities of tenants and landlords
- Workshops will increase through the end of the year
- Outreach with news outlets, stakeholders, and Oakland officials

### **PUBLIC OUTREACH / INTEREST**

Council President Bas and Councilmember Jenkins have held meetings with constituents, small property owners, property owner associations, and tenant rights organizations since the introduction of the last round of tenant protections in March 2023. To further develop this piece of legislation they took their feedback into account and have met again with some of these same organizations, and will continue to listen to input and feedback.

### **COORDINATION**

Council President Bas and Councilmember Jenkins have worked with the Office of the City Attorney on this legislation and will consult with the Housing and Community Development Department.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** This legislation will protect Oakland's low-income renters to improve their housing stability and avoid displacement thereby creating economic stability.

***Environmental:*** There are no direct environmental impacts associated with the City Council action requested in this agenda report, however this legislation can result in increased environmental sustainability for Oaklanders impacted by climate change as often the communities most impacted by racial and economic inequities are those that benefit the most from remaining housed and in community.

***Race & Equity:*** This legislation can result in increasing racial equity for Oaklanders as demographic data indicates that the COVID-19 health pandemic disproportionately impacts Oakland's lower-income residents and in particular the African American and Latinx communities. The associated dual crises of homelessness and housing instability also disproportionately impact these same communities.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Council President Bas and Councilmember Jenkins Respectfully Request That The City Council:  
**Approve An Ordinance Amending The Just Cause For Eviction Ordinance (Oakland Municipal Code 8.22.360) To Require Landlords To Demonstrate Substantial Actual Injury Before Evicting Tenants For Breach Of Lease**

For questions regarding this report, please contact Cinthya Munoz-Ramos, Chief of Staff to Council President Nikki Fortunato Bas, District 2 at [cmunozramos@oaklandca.gov](mailto:cmunozramos@oaklandca.gov).

Respectfully submitted,



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Attachment:

- Legislation