
COVID-19 Eviction Moratorium Phase-Out & Amendments To Just Cause Ordinance

Council President Nikki Fortunato Bas
President Pro Tempore Dan Kalb

— CED Meeting, April 11, 2023 —

Current Oakland Eviction Moratorium, March 9, 2020

- **Applies to properties covered by Just Cause Ordinance**
- **Major exemptions:**
 - The landlord lives in the unit with the tenant and shares a bathroom or kitchen; or
 - Property was built in the last 10 years
- **Current causes for eviction:**
 - The tenant created an imminent health/safety threat at the property; or
 - The landlord is removing the unit(s) from the rental market for at least 10 years (Ellis Act)

Current Oakland Eviction Moratorium *(continued)*

- **Late fees:**
 - No late fees for unpaid rent may be imposed
- **Current rent restrictions (rent increase moratorium):**
 - For rent-controlled properties, the landlord can raise the rent, but not above the cap of CPI, currently 3%
 - No pass-through increases or banking are allowed
- **Current end date**
 - When City Council ends the Oakland COVID-19 State of Emergency.

Evictions Declined Dramatically during COVID

Table 5. Total Eviction Notices Received by Oakland Rent Adjustment Board Annually

Fiscal Year	Total Eviction Notices Received
2018-19	6,714
2019-20	4,696
2020-21	881
2021-22	807

Source: Annual Report Of The Rent Adjustment Program for Fiscal Years 2020-21 And 2021-22

Assistance to Renters & Property Owners

Emergency Rental Assistance Program (ERAP)

- Oakland has received **\$58.7 million** from the state & federal government.*
- As of January 24, 2023, there is **\$14,485,942 to be expended** for ERAP waitlist clients. We expect the processing of these applications to take *approximately* seven months to complete by September 1, 2023.*
- Priority to those **most at risk**: previously homeless, low income at or below 30% AMI, zip codes with highest COVID infection rates.
- Majority of applicants served are Black or African American at 52%.
- Average household AMI of applicants served is 17.8%.

**Note: This information is updated since the Agenda Report was published on March 29, 2023*

Demographic Data — Key Highlights:

Source: Housing & Community Development Department, ERAP Update, March 27, 2023

Table 2. Applicants Served by Race

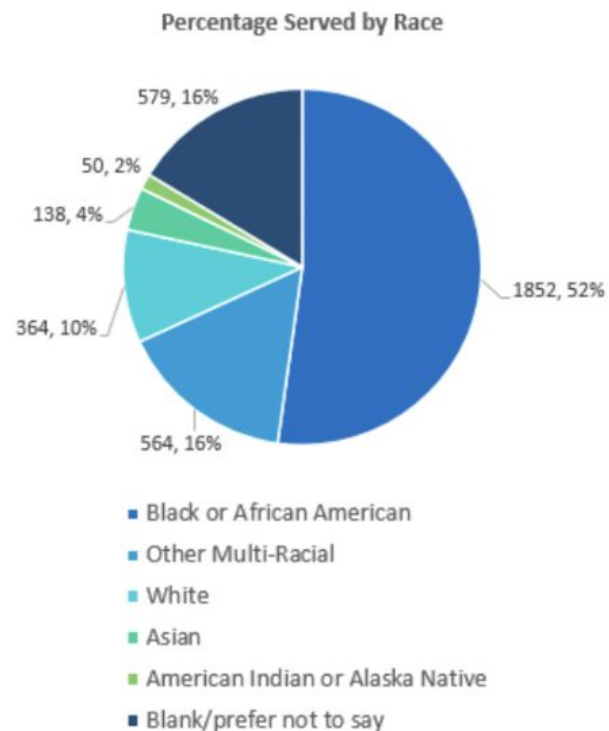
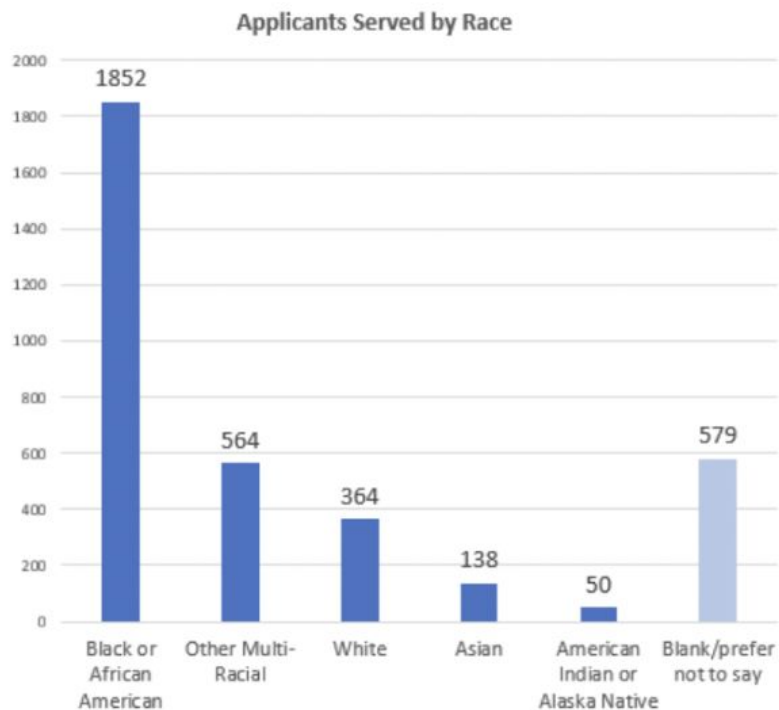
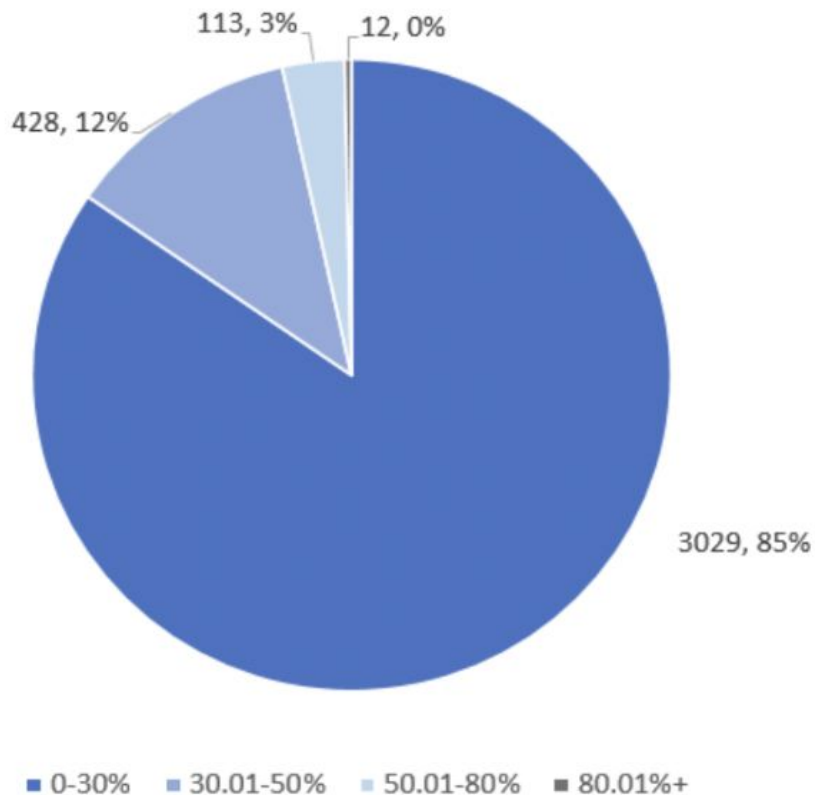


Table 3. Average Household AMI of Applicants Served

Households Served by Area Median Income



Average AMI of Applicants Served: 17.8%




Mortgage Relief/Assistance

- March 25, 2020, Gov. Gavin Newsom announced a package of [mortgage relief, and around this time several utilities announced that they would halt disconnections for non-payment.](#)
- The California Housing Finance Agency of the U.S. Department of the Treasury provides **\$1 billion** in assistance for homeowners facing COVID-19 related financial hardships including, mortgage relief up to \$80,000 and property tax assistance up to \$20,000 (<https://camortgagerelief.org/>).
 - Household income at or below 150% AMI
 - Own and live in a single-family home, condo, permanently affixed manufactured home or property with up to four units
 - First come, first served. Approx \$650M left. Projected end date in 2025.

California Mortgage Relief

Alameda County

[Back to statewide statistics](#)

Total Households	Total Amount Funded	Average Amount per Household
280	\$9,054,622	\$32,338
Race	Ethnicity	Household Income as a % of Area Median Income
 <ul style="list-style-type: none"> ■ American Indian or Alaskan Native (1%) ■ Asian (16%) ■ Black or African American (31%) ■ Native Hawaiian or Other Pacific Islander (4%) ■ Other/Multiple Race (14%) ■ White (20%) ■ Decline to answer (13%) 	 <ul style="list-style-type: none"> ■ Hispanic or Latinx (19%) ■ Not Hispanic or Latinx (71%) ■ Decline to answer (10%) 	 <ul style="list-style-type: none"> ■ 30% AMI (58.21%) ■ 50% AMI (13.21%) ■ 60% AMI (6.79%) ■ 80% AMI (9.64%) ■ 100% AMI (5.00%) ■ 150% AMI (7.86%)

Proposed Phase Out of Eviction Moratorium

May 2, 2023 (upon final approval by City Council) **through August 31, 2023**

- All prior provisions remain in effect, except:
 - Evictions for nonpayment of rent where tenant cannot show COVID-19 nexus with inability to pay
 - Applies only to rent covering the month of May 2023 and later.
 - Landlords are allowed to serve 3-day notices to pay rent.
 - Owner-move in evictions are allowed (landlord or their qualified relative will move in) if they only own one residential rental unit in Oakland

Proposed Phase Out of Eviction Moratorium *(continued)*

September 1, 2023*: Eviction moratorium ends, late fee moratorium ends

July 1, 2024: Rent increase moratorium ends

- Existing rent increase moratorium is a cap on all rent increases above CPI (currently 3%), unless required for a fair return, with no pass-throughs or banking

* *Notes:*

- ERAP applications should be processed by approximately September 1, 2023
- HCD Staff need time to conduct outreach & education; refer to legal services
- Alameda County moratorium expires April 29, 2023
- Berkeley moratorium expires September 1, 2023
- San Leandro moratorium expires February 28, 2024

Proposed Amendments To Just Cause Ordinance

- For evictions based on **non-payment of rent** that accrued between March 9, 2020 and August 31, 2023, tenant will have a defense if the rent was unpaid due to **financial hardship caused by the COVID-19 pandemic**. *This provision codifies a protection enacted in March 2020.*
- In order to evict a tenant for **breach of lease**, the landlord must prove that the breach of lease caused the landlord substantial damage, the tenant acted unreasonably, and the term of tenancy allegedly violated is reasonable. *This provision clarifies the existing substantial/material standard by requiring a showing of harm.*

Proposed Amendments To Just Cause Ordinance *(continued)*

- Tenant cannot be evicted for **owing less than one (1) month of HUD fair market rent.**
- **Resident managers** cannot be evicted for termination of employment if they were a tenant at the property prior to becoming the manager.
- Conform **occupancy limitations** to state law.

Table 1: HUD Fair Market Rent, FY 2023



FY 2023 FAIR MARKET RENT DOCUMENTATION SYSTEM

The FY 2023 Oakland-Fremont, CA HUD Metro FMR Area FMRs for All Bedroom Sizes

Final FY 2023 & Final FY 2022 FMRs By Unit Bedrooms					
Year	Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
FY 2023 FMR	\$1,658	\$1,969	\$2,405	\$3,144	\$3,706
FY 2022 FMR	\$1,538	\$1,854	\$2,274	\$3,006	\$3,578

Alameda County, CA is part of the Oakland-Fremont, CA HUD Metro FMR Area, which consists of the following counties: Alameda County, CA; and Contra Costa County, CA. All information here applies to the entirety of the Oakland-Fremont, CA HUD Metro FMR Area.

Source: [FY 2023 Oakland-Fremont, CA HUD Metro FMR Area FMRs for All Bedroom Sizes](#)

Table 8. Housing and Community Development Department's Homelessness Risk Continuum To Prevent Homelessness



Eviction Protection & Homelessness Prevention Programs

Housing & Community Development (HCD) provide these services primarily through Rental Adjustment Program staff:

- Collecting and processing eviction notices
- Housing Counseling
- Education Workshops
- Rent Petition Hearings
- Implementation of the Rental Registry

www.oaklandca.gov/resources/tenant-property-owner-resources

www.oaklandca.gov/topics/rent-adjustment-program

Eviction Protection & Homelessness Prevention Programs (cont'd)

- \$58.7 million in Emergency Rental Assistance to date
- \$1 million for eviction protection (Oakland Housing Secure)
 - Other resources are Keep Oakland Housed and Alameda Housing Secure
- \$2.3 million for homelessness prevention pilot programs

HCD's RAP is operating at 25% staff vacancy rate. We request that the Administration prioritize filling budgeted, vacant HCD positions to implement this legislation by:

- Conducting proactive outreach and education via mailings and more;
- Updating tenant/landlord workshop materials; and
- Responding to public inquiries via phone and email;

As well as to manage other activities such as the launch of the Rental Registry.

Continued advocacy with the County, State, and Feds is necessary too.

Information Available from Staff

- **Emergency Rental Assistance Program (ERAP)**
- **Foreclosure Data for Rental Properties**

Discussion

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