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AGENDA REPORT

TO: Members of the City Council

FROM: Councilmember At-Large
Rebecca Kaplan

SUBJECT: Ordinance to Amend the Code
Enforcement Relocation Program

DATE: December 29, 2016

RECOMMENDATION

Councilmember Kaplan recommends that the City Council adopt an ordinance to amend the Code Enforcement Relocation Program, O.M.C. Chapter 15.60, to: (1) increase relocation payments for tenants displaced for code compliance repairs; (2) redefine tenant eligibility for relocation payments to expand eligibility for such payments; and (3) enhance penalty provisions and remedies for violations of O.M.C. Chapter 15.60.

EXECUTIVE SUMMARY

This proposed ordinance amends the Code Enforcement Relocation Program, O.M.C. Chapter 15.60, which provides for owner-paid relocation payments and assistance to residential tenants who are displaced due to code compliance activities. The proposed amendments would apply to all residential tenants, including those in non-compliant units.

This proposed ordinance would amend the relocation payments set forth in O.M.C. Chapter 15.60 to the amounts set forth in O.M.C. 8.22.450, including the additional payments of \$2,500 per unit for units that include lower income, senior or disabled tenants, and/or minor children as set forth in O.M.C. 8.22.450(B). Recently, the City Council approved these same relocation fee amounts for evictions pursuant to the *Ellis Act*, another type of "no fault" eviction. The amounts set forth in O.M.C. 8.22.450(A) are as follows:

- \$6,500 per studio/one bedroom units
- \$8,000 per two bedroom units
- \$9,875 per three or more bedroom units

The proposed increase in amount of the relocation fees for the Code Compliance Relocation Program is justified and necessary for impacted tenants to find new housing and avoid displacement.

The proposed ordinance would also clarify eligibility for relocation payments to include tenants: 1) who have received a notice to vacate from a property owner who seeks in good faith to undertake necessary and substantial repairs that cannot be completed while the unit is occupied; and 2) who vacate a unit or room because the property owner seeks vacation due to the existence of conditions for which the city or a court could issue a notice to vacate, notice to abate life-threatening condition, or declaration of substandard covering that unit or room, but the city or a court has not yet done so.

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Finally, the proposed ordinance would expand the penalties for violating, or attempting to violate, the provisions of the chapter, and would allow the City Attorney to bring an action against a property owner that the City Attorney believes has violated provisions of the chapter or any program rules and regulations adopted pursuant to the chapter.

BACKGROUND / LEGISLATIVE HISTORY

Oakland's Municipal Code Section 15.60, the Code Enforcement Relocation Program, provides for owner-paid relocation payments and assistance to residential tenants who are displaced due to code compliance activities.

The current ordinance only applies to tenants who receive a notice from the property owner requiring the household to vacate or quit the rental unit or room *at any time after* the city or a court has issued a notice to vacate, notice to abate life-threatening condition, or declaration of substandard covering that unit or room.

Under the current ordinance, an eligible tenant household who will experience permanent displacement receives a relocation payment from the property owner equal to two times the current monthly HUD Fair Market Rent for a unit of comparable size and type to the rental unit from which the displacement occurs, plus a set payment of two hundred dollars (\$200.00) for moving costs and related expenses. (15.60.110(A)).

Also under the current ordinance, an eligible tenant household who will experience temporary displacement receives a relocation payment from the property owner to cover the tenant household's actual and reasonable moving expenses and temporary housing accommodations costs directly incurred as a result of the temporary displacement. (15.60.110(B)).

Finally, violating the current ordinance results only in an infraction; and includes a private right of action, but does not permit the City Attorney to bring an action against a property owner for violating the provisions of the chapter.

Oakland's Municipal Code Section 8.22.400 sets out the procedures to be used when an owner withdraws rental units from the rental market as authorized by the Ellis Act (Government Code Section 7060). Section 8.22.450 provides for relocation payments for all tenants displaced as a result of an owner's withdrawal from the rental market, and additional compensation for tenant households that include lower income, elderly or disabled tenants, and/or minor children.

ANALYSIS

Rationale for Setting Base Relocation Payment at \$8000 per Unit

Tenants who are displaced in Oakland due to code compliance activities will be forced to incur substantial costs to relocate to new housing. These costs include, but are not limited to, move-in costs to a new unit, actual moving costs, new utility hookups, payment for temporary housing while new permanent housing is sought, and lost work time seeking housing. The impacts of these code enforcement-related displacements are particularly difficult for senior, disabled, and

low-income tenants and tenants with minor children. Moreover, the burden of displacement affects all renters – including those in non-compliant units.

According to the December 2016 Zumper National Rent Report, the average rent for a one-bedroom apartment in Oakland is \$2,200 per month, and the average rent for a two-bedroom apartment is \$2,690. (See Attachment A). Average move-in costs of first month, last month, and security deposit would be \$6,600 and \$8,070 respectively. Applying the percentage increase from one-bedroom to two-bedroom units results in a calculation of average rent for three-bedroom units of \$3,282 per month, resulting in average move-in costs of \$9,846. In addition, a survey conducted by City Staff of three moving companies in Oakland determined that the average cost of moving in Oakland is approximately \$500.

Due to these exorbitant housing prices, tenants displaced by code compliance activities would be unable to relocate if additional relocation payments are not authorized.

Rationale for Extending Relocation Payments to Tenants Living In Non-Compliant Units

Due to Oakland's prohibitive rental prices, many tenants can only afford substandard and informal housing in converted spaces such as warehouses, garages, and storage units. Many of these tenants work in Oakland and rely on public transportation to get to their jobs. They have no choice but to live in such non-compliant units, because they cannot otherwise keep their jobs and afford housing. If relocation payments did not apply to tenants living in these units, many Oakland residents would become homeless or be pushed out of the City.

Rationale for Requiring Additional \$2500 Payment for Vulnerable Tenants

While being displaced due to code compliance repairs imposes a great hardship on the health and well-being of all tenants, the impacts are particularly significant on members of vulnerable groups such as senior, disabled and low-income tenants and tenants with minor children.

Rationale for Expanding Tenant Eligibility for Relocation Payments

Tenants who are displaced because a property owner *proactively* seeks to bring a property into compliance with applicable codes and laws affecting the health and safety of tenants suffer the same results as those tenants who are displaced *after* the city or a court has issued a notice to vacate, notice to abate life-threatening condition, or declaration of substandard covering that unit or room. Because these tenants suffer the same hardships of displacement, they should also be eligible for relocation payments designed to mitigate these hardships.

Rationale for Expanding Penalties for Violating the Ordinance

Expanding the penalties associated with violating/attempting to violate the ordinance will have a greater deterrent effect on potential violators.

Rationale for Allowing the City Attorney to Bring an Action against a Property Owner

Many tenants do not have the resources to bring a private action against a property owner who violates the ordinance. Enabling the City Attorney to bring a civil action against property owners

allows for greater enforcement of the ordinance and the possibility of recovering damages for violations.

COORDINATION

The legislation was created by the Office of Councilmember Kaplan in coordination with the City Attorney's Office.

SUSTAINABLE OPPORTUNITIES

Economic: This ordinance intends to help tenants manage the economic burdens associated with displacement due to code compliance activities.

Social Equity: This ordinance intends to promote social equity by helping impacted Oakland tenants afford new housing and avoid displacement.

ACTION REQUESTED OF THE CITY COUNCIL

Adopt an ordinance to amend the Code Enforcement Relocation Program, O.M.C. Chapter 15.60, to: (1) increase relocation payments for tenants displaced for code compliance repairs; (2) redefine tenant eligibility for relocation payments to expand eligibility for such payments; and (3) enhance penalty provisions and remedies for violations of O.M.C. Chapter 15.60.

For questions regarding this report, please contact Laura Holtan, Policy and Legislative Director for Councilmember Kaplan, at 510-238-7081.

Respectfully submitted,



Councilmember At-Large Rebecca Kaplan

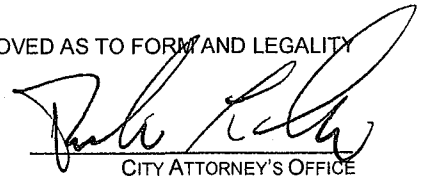
Reviewed by:
Richard Illgen, Supervising Deputy City
Attorney

Prepared by:
Laura Holtan, Policy and Legislative Director
Office of Councilmember Rebecca Kaplan

Attachment A: December 2016 Zumper National Rent Report

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January 10, 2017

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CITY ATTORNEY'S OFFICE

INTRODUCED BY COUNCILMEMBER KAPLAN

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE TO AMEND THE CODE ENFORCEMENT RELOCATION PROGRAM, O.M.C. CHAPTER 15.60, TO: (1) INCREASE RELOCATION PAYMENTS FOR TENANTS DISPLACED FOR CODE COMPLIANCE REPAIRS; (2) REDEFINE TENANT ELIGIBILITY FOR RELOCATION PAYMENTS TO EXPAND ELIGIBILITY FOR SUCH PAYMENTS; AND (3) ENHANCE PENALTY PROVISIONS AND REMEDIES FOR VIOLATIONS OF O.M.C. CHAPTER 15.60

WHEREAS, tenants often do not have adequate funds to move, and when such tenants are forced to move, they face displacement and great hardship; and

WHEREAS, tenants evicted in Oakland are forced to incur substantial costs related to new housing including, but not limited to, move-in costs to a new home, moving costs, new utility hook-ups, payments for temporary housing, and lost work time seeking housing, and increased rent due to vacancy decontrol; and

WHEREAS, tenants who find acceptable new housing commonly find themselves required to pay substantial move-in costs of first and last month's rent plus a security deposit equal to one month's rent; and

WHEREAS, applying the percentage increase from one-bedroom to two-bedroom units results in a calculation of average rent for three-bedroom units of \$3,282 per month, resulting in average move-in costs of \$9,846; and

WHEREAS, a survey conducted by Staff of three moving companies in Oakland determined that the average cost of moving in Oakland is approximately \$500; and

WHEREAS, the impacts of evictions for repairs or code enforcement, which are types of tenant "no fault" evictions, are particularly significant on elderly, disabled, and low-income tenants and tenants with minor children, justifying an additional payment for households with these tenants; and

WHEREAS, the City Council recently approved these same relocation fee amounts for evictions pursuant to the Ellis Act, another type of "no fault" eviction; and

WHEREAS, the City Council finds that the proposed increase in amount of the relocation fees for the Code Compliance Relocation Program permanent displacement is justified and necessary for impacted tenants to find new housing and avoid displacement; and

WHEREAS, pursuant to O.M.C. 8.22.360 et seq. ("Just Cause"), an owner does not need to be acting under an outstanding notice of code violation in order to legally evict a tenant to enable the owner to make substantial repairs necessary to bring the property into compliance with codes and laws that affect the health and safety of tenants; and

WHEREAS, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to, but not limited to, the following CEQA Guidelines: § 15378 (regulatory actions), § 15061(b)(3) (no significant environmental impact), and § 15183 (consistent with the general plan and zoning);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Modification of Chapter 15.60 of the Oakland Municipal Code. Chapter 15.60 of the Oakland Municipal Code is hereby amended to read as follows (additions are shown as double underline and deletions are shown as ~~strikethrough~~):

Chapter 15.60 – Code Compliance Enforcement Relocation Program

15.60.010 - Purpose.

The primary purpose of this chapter is to provide for owner-paid relocation payments and assistance to residential tenants who are displaced due to compliance with building, housing and fire codes, ~~city code enforcement activities~~.

15.60.020 - Findings.

This chapter is enacted in recognition of the following facts and for the following reasons:

- A. Some residential rental units, ~~and~~ single room occupancy buildings, live-work spaces, and unpermitted or "illegal" units in Oakland have been found to have severe code violations which threaten the life and safety of occupants. The hazardous living conditions often require that the tenant vacate the structure to allow for extensive repairs or demolition of the structure.

- B. These code violations are often caused by the negligence, deferred maintenance, or the illegal use of the structure as a residence created or permitted by the property owner. Code violations may breach the owner's implied warranty of habitability, and could constitute constructive eviction of the tenant household from its residence.
- C. The difficulty of finding affordable replacement housing and the burden of incurring moving-related expenses creates a financial hardship for tenant households, particularly those who are low-income.
- D. Relocation benefits and assistance are necessary to ensure that displaced tenants secure safe, sanitary and decent replacement housing. This is consistent with the goals enunciated in the city's housing element to its general plan to remove dilapidated housing units only if adequate and affordable relocation housing is available to occupants, and to prevent homelessness. This policy is also consistent with and in furtherance of state housing goals.
- E. Property owners who fail to properly maintain residential rental properties, and/or create residential units illegally should bear responsibility for the hardships their actions (or lack of action) create for the tenant. Relocation is a necessary cost of code enforcement that should be the responsibility of the property owner, and the city should be reimbursed by the responsible owner for any of these costs that it incurs in the code enforcement process.
- F. The requirement to pay relocation costs under this chapter will encourage property owners to correct code violations and protect the public health, safety, and general welfare of the residents of the city.
- G. The level of payments provided for in this chapter is reflective of the actual costs of relocation likely to be incurred by displaced tenant households—in particular, moving costs and the cost of first and last months' rent, as well as other costs, both monetary and nonmonetary, associated with involuntary dislocation.
- H. O.M.C. 8.22.360 et seq. permits an owner to evict tenants for cause when the owner seeks to undertake substantial repairs necessary to bring the property into compliance with codes and laws that affect the health and safety of tenants, whether or not the owner initiates the repairs in response to City or Court notices or declarations. This Ordinance is intended to comply with, and complement, that O.M.C. 8.22.360 et seq.

15.60.030 - Definitions.

For purposes of this chapter, certain terms, phrases, words and their derivatives shall be construed as specified in this section:

"Building Official" means the city official who is authorized and directed to administer and enforce the Oakland Housing Code Building Maintenance Code, as well as any designees of such person.

"City Administrator" means City Administrator or his or her designee.

"Code compliance enforcement activities" means activities initiated by the city to determine the condition of a building and require the property owner to make necessary repairs, to vacate the building,

or to take other action as necessary to bring the property into compliance with applicable state or local zoning, building or housing standards, including but not limited to standards contained in the Oakland Housing Code Building Maintenance Code, the Oakland Municipal Code, and Oakland Planning Code, the Uniform Fire Code as adopted by the city, and other technical codes adopted and enforced by the city for existing residential properties, including codes addressing dangerous or hazardous buildings or activities initiated by the property owner to bring the property into compliance with such codes and laws as may be applicable. Code enforcement activities shall include drug nuisance abatement actions taken by the city pursuant to California Health and Safety Code Section 11570, et seq.

"Day" means calendar day, unless otherwise specified.

"Declaration of substandard" means a declaration, notice, or order executed by the Building Official or his or her designee under the authority of the Oakland Housing Code Building Maintenance Code or other provision of law declaring that a property is substandard, unsafe, and/or a public nuisance.

"Disabled" means a person with a disability, as defined in Section 12955.3 of the Government Code.

"Elderly" means a person sixty-two (62) years old or older.

"Housing official" means the city official who is designated by the City Manager to administer the city's relocation programs, as well as any designees of such person.

"Lower income tenant household" means tenant households whose income is not more than permitted for lower income households, as defined by California Health and Safety Code Section 50079.5.

"Minor Child(ren)" means a person(s) who is 18 years or younger at the time of service of an eviction notice.

"Noncomplying building or unit" means a building, room, or rental unit in the city which has been found or determined by an authorized enforcement official of the city to be substandard, blighted, unsafe, a public nuisance, a drug nuisance, or otherwise not in conformance with applicable state or local zoning, building or housing standards, including but not limited to standards contained in the Oakland Housing Code Building Maintenance Code, the Oakland Planning Code, the Oakland Municipal Code, and the Uniform Fire Code as adopted by the city, and other technical codes adopted and enforced by the city for existing residential properties, including codes addressing dangerous or hazardous buildings; and "noncomplying condition" or "noncompliance" means any physical condition or use with respect to the building, room or unit, including drug activity in the case of drug nuisance abatement actions, that contributes to such finding or determination.

"Notice to abate life-threatening condition" means a notice and/or order to abate a substandard or noncomplying condition issued by the city pursuant to its code enforcement activities, however such notice or order is denominated, that indicates on its face that a life-threatening condition is present.

"Notice to vacate" means a notice and/or order, however denominated, issued by the city or a court of competent jurisdiction to a property owner and/or a tenant household pursuant to the city's code enforcement activities requiring that a residential building, unit or room be vacated, either immediately or at some future specified time, as a result of a determination that such building, unit or room is substandard, blighted, unsafe, a public nuisance, a drug nuisance, or in noncompliance with applicable building, housing, zoning, or other code standards. For purposes of this chapter, the term "notice to vacate" includes a complaint or action filed by the city with a court of competent jurisdiction and served on the property owner pursuant to the city's code enforcement activities in which the city asks for vacation of the property as requested relief. The term "notice to vacate" for purposes of this chapter includes a closure order obtained by the city as part of a drug nuisance abatement action brought pursuant to California Health and Safety Code Section 11570, et seq.

"~~Oakland Housing Code Building Maintenance Code~~" means that code adopted by ~~Ordinance No. 8549 C.M.S.~~, now codified at Chapter 15.08 of the Oakland Municipal Code, regulating maintenance, sanitation, ventilation, light, location, use or occupancy of residential buildings, as well as any amendments to or successor laws of such ordinance.

"Permanent displacement" means the vacating of a residential unit or room by a tenant household due to code enforcement activities when that unit or room (or an equivalent unit or room in the building) foreseeably will not be brought into code compliance or will not be available for reoccupancy by the tenant household within sixty days from the vacating.

"Property owner" or "Owner" means a person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property. In the case of multiple ownership of the subject real property, "property owner" refers to each entity holding any portion of the fee interest in the property, and the property owner's obligations in this chapter shall be joint and several as to each property owner.

"Relocation appeals board" means the Housing, Residential Rent, and Relocation Board, or any other hearing body or hearing officer established by the City Council of the city or designated by the City Administrator Manager to hear appeals on relocation issues.

"Rental unit" means a dwelling space in the city containing a separate bathroom, kitchen, and living area, including a single-family dwelling or unit in a multifamily or multipurpose dwelling, or a unit in a condominium or cooperative housing project, or a unit in a structure that is being used for residential uses whether or not the residential use is a conforming use permitted under the Oakland Municipal Code or Oakland Planning Code, which is hired, rented, or leased to a household within the meaning of California Civil Code Section 1940. This definition applies to any dwelling space that is actually used for residential purposes, including live-work spaces, whether or not the residential use is legally permitted.

"Room" means an unsubdivided portion of the interior of a residential building in the city which is used for the purpose of sleeping, and is occupied by a tenant household for at least thirty (30) consecutive days. This includes, but is not limited to, a single room occupancy (SRO) living space, a rooming unit or efficiency unit located in a residential hotel, as that term is defined in accordance with

California Health and Safety Code Section 50519. This definition applies to any space that is actually used for residential purposes whether or not the residential use is legally permitted. For purposes of determining the amount of relocation payments, a room is the equivalent of a studio apartment.

"Temporary displacement" means the vacating of a rental unit or room by a tenant household due to code enforcement activities when that unit or room (or an equivalent unit or room in the building) foreseeably will be brought into code compliance and be available for reoccupancy by the tenant household within sixty (60) days from the vacating; or when the tenant household and property owner have otherwise agreed that the displacement shall be considered temporary.

"Tenant" means a tenant as that term is defined in O.M.C. 8.22.020.

"Tenant household" means one or more individuals tenants who rent or lease a rental unit or room as their primary residence and who share living expenses.

15.60.040 - Tenant eligibility.

- A. A tenant household shall be eligible for relocation payments from a property owner under this chapter if the tenant household is displaced from its rental unit or room due to the city's or owner's code compliance enforcement activities. For purposes of this chapter, a tenant household shall be deemed to be displaced from its rental unit or room due to code compliance enforcement activities if such household either:
1. Receives a notice to vacate from the property owner who, after having obtained all necessary permits from the City of Oakland on or before the date upon which the notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot be completed while the unit is occupied, and that are necessary either to bring the property into compliance with applicable codes and laws affecting health and safety of tenants of the building, or under an outstanding notice of code violation affecting the health and safety of tenants of the building; ~~Receives a notice from the property owner requiring the household to vacate or quit the rental unit or room at any time after the city or a court has issued a notice to vacate, notice to abate life-threatening condition, or declaration of substandard covering that unit or room; or~~ Receives a notice from the property owner requiring the household to vacate or quit the rental unit or room at any time after the city or a court has issued a notice to vacate, notice to abate life-threatening condition, or declaration of substandard covering that unit or room; or
 2. Vacates its unit or room (whether or not the property owner requires vacation) after (a) the city or a court has issued by a notice to vacate, notice to abate life-threatening condition, or declaration of substandard covering that unit or room, and (b) the abatement period has expired without correction of the noncomplying condition (if a time period to abate the noncomplying condition is specified in such notice or declaration and the city or court does not order earlier vacation); or

3. Vacates its unit or room because the property owner seeks to cause the unit or room to be vacated due to the existence of conditions for which the city or a court could issue a notice to vacate, notice to abate life-threatening condition, or declaration of substandard covering that unit or room, but the city or a court has not yet done so.
- B. Notwithstanding the above, a tenant household shall not be deemed to be displaced due to code compliance enforcement activities in any of the following cases:
1. The property owner can demonstrate by clear and convincing evidence that vacation of the unit or room was due primarily to a cause other than either (a) the noncomplying condition, (b) the city's or court's determination that the rental unit, room, or building was a noncomplying building or unit, or (c) the need to make repairs to rectify any noncomplying condition;
 2. The property owner can demonstrate by clear and convincing evidence that the noncomplying condition was created by the tenant household or the tenant household's guests or invitees, and was not created by the property owner or the owner's agent, or the City Administrator Housing Official determines that the tenant household occupied the rental unit or room for the purpose of receiving relocation benefits;
 3. The property owner can demonstrate by clear and convincing evidence that the tenant household unreasonably prevented the owner or the owner's agent from undertaking maintenance or repairs that would have prevented or rectified the noncomplying condition;
 4. All noncomplying conditions are corrected, as determined by the city, prior to the time the tenant household has taken definitive steps to move;
 5. The notice to vacate, notice to abate life-threatening condition, or declaration of substandard is rescinded or withdrawn by the city or the court or is overturned on appeal prior to the time the tenant household has taken definitive steps to move;
 6. The property owner offers in writing to move the tenant household immediately at the property owner's expense into a replacement unit or room in the same building, and all of the following are true: (a) the replacement unit or room is at least substantially comparable in size, condition, and amenities as the former unit or room, (b) the replacement unit or room complies with all applicable zoning, building, and housing codes, (c) the replacement rent is no greater than the rent charged for the former unit or room, and (d) the offer was made prior to the time the tenant household had taken definitive steps to move; or
 7. The tenant household is required to vacate the unit or room due solely to damage resulting from an earthquake, fire, flood, natural disaster, civil disturbance, or accident outside the control of the property owner, if (a) the vacation is required within six months of such event, and (b) the property owner can demonstrate that such damage was not caused by the acts or the negligence of the property owner or by a preexisting condition in the building in violation of applicable building, housing, fire, or other health and safety codes.

- C. Any provision of a lease or rental agreement for a rental unit or room in which the tenant household agrees to modify or waive any of its rights under this chapter, including its rights to relocation payments, shall be void as contrary to public policy.
- D. Property owners may not ask or require tenants to waive any other rights as a condition of receiving relocation payments.

15.60.050 - City's informational notices.

- A. The city's Building Official or other authorized official along with issuance of any notice to vacate, notice to abate life-threatening condition, or declaration of substandard to a property owner covering a rental unit or room shall inform the property owner that any tenant household who vacates said rental unit or room may be eligible for relocation payments from the property owner, that failure to make required payments to eligible tenant households before vacation may result in the city making payments on behalf of the owner, and that failure to reimburse the city for all payments made and other costs incurred shall result in a lien being placed on the property. Following issuance of any such notice or declaration and expiration of the period to abate the noncomplying condition (if an abatement period is specified in any such notice or declaration), the city shall also use reasonable efforts to deliver information to each affected tenant household in the building regarding the relocation benefits and assistance, if any, to which the tenant household may be entitled.
- B. Failure by the city to supply or attempt to supply any of the information or notices provided for in this chapter shall not affect the validity of any code enforcement notice, order, or action, nor shall any such failure diminish any property owner's obligation to abate any noncomplying conditions or provide relocation assistance as required under this chapter.

15.60.060 - Owner's notice to tenant.

Any notice from a property owner to an eligible tenant household to vacate or quit a rental unit or room following the issuance of a notice to vacate, notice to abate life-threatening condition, or declaration of substandard must set forth the reasons for the need to vacate, the tenant household's entitlement to relocation payments from the property owner, the tenant household's right to reoccupancy following completion of repairs (if the property is to be repaired), and the estimated date for reoccupancy. The property owner's notice shall include a statement that the tenant should contact the city's relocation office for further information, along with the telephone number of that office, and the property owner shall attach a copy of the relocation program summary. The property owner shall send a copy of all notices to the Building Official or the applicable official otherwise issuing the notice on behalf of the city.

15.60.070 - Relocation payments by owner.

- A. The property owner shall be responsible for providing relocation payments, in the amounts specified in Section 15.60.110, to an eligible tenant household in the form and manner prescribed under this chapter and any rules and regulations adopted under this chapter.
- B. In the case of permanent displacement, the property owner shall make the payment directly to an eligible tenant household no later than ten days before the expected vacation date specified in either a city or court notice or order, the property owner's notice to vacate, or the tenant household's notice to the property owner of the tenant household's intent to vacate pursuant to Section 15.60.040(A)(2), whichever date is earliest in the event of multiple notices. If less than ten days' advance notice of vacation is given, or no vacation date is specified in such notice or order, then the payment by the property owner to the tenant household is due no later than the actual time of vacation. The property owner must pay eligible tenant households the additional payments for tenant households that include lower income, elderly or disabled tenants, and/or minor children as set forth in O.M.C. 8.22.450(B) within fifteen (15) days of the tenant's notice of eligibility or the tenant supplying documentation of the tenant's eligibility.
- C. If an eligible tenant household vacates its unit or room not in response to a notice to vacate by the city, a court, or the property owner, but on its own initiative pursuant to Section 15.60.040(A)(2), in response to a notice to abate life-threatening condition or declaration of substandard issued by the city, and if such tenant household has not given advance notice to the property owner of its intention to vacate, then the payment by the property owner to the tenant household is due no later than ten days after written demand for such payment is made by the tenant household to the property owner; however, in this case such a demand must be made by the tenant household no later than thirty (30) days following its actual vacation of the unit or room.
- D. In the case of temporary displacement, the property owner shall make the payment directly to an eligible tenant household within five days after the tenant household has submitted reasonable documentation (such as bills, invoices, rental agreements, estimates, etc.) to the property owner of the actual moving and temporary housing expenses the tenant household will incur or has incurred as a result of the displacement during the expected displacement period.
- E. The obligation of the property owner to deliver relocation payments to a tenant household shall be suspended pending the outcome of a staff determination or an appeal before the Relocation Appeals Board pursuant to Section 15.60.120 of this chapter, if a request for such determination or appeal has been made by the property owner in accord with and within the times specified in Section 15.60.120.
- F. Notwithstanding the above, an eligible tenant household shall not be required to vacate the rental unit or room until the required relocation payment has been made and any staff determination or appeal requested by the property owner has been concluded, unless either (1) the Building Official or other authorized city official has determined for health and safety reasons that vacation must take place sooner, or (2) the property owner intends to withdraw such unit or room from rent or lease pursuant to California Government Code Section 7060, et seq., and complies with the standards in said statute and Article III of O.M.C. Chapter 8.22. However, a property owner

remains liable for payment of relocation payments to eligible tenant households under this chapter notwithstanding the applicability of the exceptions above in clauses (1) and (2).

- G. The property owner shall also be responsible for reimbursing the city for any relocation payments made and costs incurred by the city pursuant to the provisions of this chapter.

15.60.080 - Relocation payments and assistance by city.

- A. The city shall use reasonable efforts, subject to budget staffing constraints, to assist tenant households displaced by its code enforcement activities by providing information, referrals, and other relocation advisory assistance aimed at facilitating the household's move. The tenant household should contact the City Administrator Housing Official for relocation information within ten days of receipt of information from either the city or the property owner that it may be eligible for assistance. Failure by the tenant household to contact the city within the ten-day period will not relieve the property owner from his or her responsibility to provide relocation benefits.
- B. The city, in the sole discretion of the City Administrator Housing Official and subject to funding availability, may make from city funds any of the payments required of a property owner under this chapter. Such payments, as well as any administrative costs incurred by the city as a result of the failure of the property owner to make the required payments to an eligible tenant household, shall continue to be an obligation of the property owner and shall be reimbursed by the property owner to the city. In order for the city to consider making such payments, a request must be made by the tenant household to the City Administrator Housing Official following the property owner's failure to pay the required payments by the due date specified in Section 15.60.070B or C, but in no event later than sixty (60) days following the tenant household's vacation of the rental unit or room. Prior to any city payment to a tenant household, the City Administrator Housing Official shall make a determination with respect to the eligibility of the tenant household for relocation payments. The City Administrator Housing Official will make reasonable efforts to contact a representative of the property owner by telephone or written communication prior to making the determination or authorizing city payment. However, failure to give prior notice to the property owner shall not relieve the property owner of any obligations under this chapter.
- C. When the city makes any relocation payments from city funds that are the responsibility of the property owner under this chapter, the city shall bill the property owner for reimbursement of the amount of payment, plus any administrative and other costs that it would not have incurred but for the failure of the owner to make the required payment. The property owner shall reimburse the city within five days of billing. If the owner does not make full and timely reimbursement of this amount to the city, the city may record a lien on the property with the County Recorder and shall provide notice of such lien to the property owner and to the County Assessor. The form of such lien and the manner of enforcement and collection shall be those specified in the Oakland Housing Code Building Maintenance Code, or as otherwise authorized by state or local law. Alternatively, the city may include the unreimbursed amount in any other lien placed on the property by the city to secure payment of enforcement costs,

including but not limited to the lien authorized by the Oakland ~~Housing Code~~ Building Maintenance Code.

- D. Notwithstanding the above, the intent of this chapter is to place ~~primary~~ responsibility for making relocation payments to displaced tenant households on those property owners who are responsible for code violations, and nothing in this section is intended to relieve or release any such property owner from this responsibility.
- E. The City Administrator ~~Housing Official~~, in his or her sole discretion and on a case-by-case basis, may authorize city-paid relocation payments above the amounts specified in Section 15.60.110, if circumstances so warrant, subject to funding availability. Any such additional amounts shall not be subject to reimbursement by the property owner.

15.60.090 - Immediate vacation.

The City Administrator ~~Housing Official~~ may authorize in his or her sole discretion the immediate payment of relocation benefits by the city in the amounts authorized by this chapter to an eligible tenant household if the Building Official or other authorized code enforcement official has determined that immediate vacation of the rental unit or room is necessary due to public health and safety concerns. The tenant household must sign a request for relocation assistance from the City Administrator ~~Housing Official~~ in order to receive immediate relocation payments. The property owner shall be notified subsequently in writing of any relocation payments by the city under this section. Such payments, up to the amounts specified in Section 15.60.110, and other costs shall be an obligation of the property owner, and the property owner shall be required to reimburse the city for these relocation costs and shall be subject to a lien against its property for this amount, as set forth above.

15.60.100 - Move-back option.

- A. An eligible tenant household who has experienced temporary or permanent displacement from its rental unit or room due to code enforcement activities shall have the option of moving back into that rental unit or room, or, if this is not possible, to move into an equivalent unit or room in the same building, if and when the unit or room is ready for occupancy. If a tenant household wishes to avail itself of this option, it must inform the property owner in writing of its current address at all times during the period of displacement.
- B. The property owner shall notify the eligible relocated tenant household at least thirty (30) days in advance by certified mail of the availability of the unit or room. If a shorter notice is given and the tenant household indicates that it wishes to move back, the unit or room must be held vacant at no cost to the household for a period no less than thirty-five days after the mailing of the notice of availability. The notice shall provide that within seven days of receipt of notice of availability of the unit or room, a tenant household wishing to move back must notify the property owner in writing of this election.
- C. If a tenant household wishing to move back into the unit or room is required to pay a security deposit, the tenant must be permitted sufficient time to obtain a refund of any deposit paid to obtain housing during the period of relocation.

- D. This move-back option is in addition to an eligible tenant household's entitlement to monetary relocation payments from the property owner under this chapter, and exercise of this option by a tenant household shall not affect that household's eligibility for such payments.
- E. For tenants in units covered under O.M.C. Chapter 8.22, the rent upon return to the unit shall be adjusted pursuant to Article I of O.M.C. Chapter 8.22 for any allowable increases or required decreases for habitability violations.

15.60.110 - Amount of relocation payments.

- A. Permanent Displacement. An eligible tenant household who will experience permanent displacement as defined above shall receive a monetary relocation payment from the property owner equal to the Relocation Payment amounts set forth in O.M.C. 8.22.450, including the additional payments for tenant households that include lower income, elderly or disabled tenants, and/or minor children as set forth in O.M.C. 8.22.450(B), two times the current monthly HUD Fair Market Rent for a unit of comparable size and type to the rental unit or room from which the displacement occurs, plus a set payment of two hundred dollars (\$200.00) for moving costs and related expenses. For purposes of this chapter, "HUD Fair Market Rent" means the amount specified in the schedule of Fair Market Rents for existing housing published by the U.S. Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, applicable to the city of Oakland and current as the date the city or court issues the notice to vacate, notice to abate life-threatening condition, or declaration of substandard; or, if HUD should cease publishing said amounts, "HUD Fair Market Rent" shall mean any amount or any index specified by the Housing Official in his or her discretion which represents a reasonable estimate of prevailing market residential rents in the Oakland area. Information on current HUD Fair Market Rents will be available upon request from the Housing Official.
 - a. A tenant whose household qualifies for the additional payment as set forth in O.M.C. 8.22.450(B) may request it from the owner, provided the tenant gives written notice of his or her entitlement to such payments to the owner within thirty (30) days following the tenant household's actual vacation of the unit or room.
 - b. An owner who, reasonably and in good faith, believes that a tenant does not qualify for the additional payment, may request documentation from the tenant demonstrating the tenant's qualification. Such documentation may not include any document that is protected as private or confidential under and state, local or federal law. The owner's request must be made within fifteen (15) days after receipt of the tenant's notification of eligibility for the additional payment. The tenant has thirty (30) days following receipt of the owner's request for documentation to submit documentation. The owner must keep the documents submitted by the tenant confidential unless there is litigation or administrative proceedings regarding the tenant's eligibility for relocation payments or the documents must be produced in response to a subpoena or court order, in which case the tenant may seek an order from the court or administrative body to keep the documents confidential. Examples of the types of evidence that may be used to present a

claim that a household is entitled to an extra payment based on a tenant's disability status may be in the form of a statement from a treating physician or other appropriate health care provided authorized to provide treatment, such as a psychologist. A tenant may also submit evidence of a medical determination from another forum, such as Social Security or worker's compensation, so long as it includes the fact that the tenant has a disability and its probable duration.

- B. Temporary displacement. An eligible tenant household who will experience temporarily displacement as defined above shall receive monetary relocation payment or payments from the property owner to cover the tenant household's actual and reasonable moving expenses and temporary housing accommodations costs directly incurred as a result of the temporary displacement. "Moving expenses" shall include the cost of removing, transporting, and/or storing the tenant household's personal property during the displacement period, and "temporary housing accommodations costs" shall include the cost of rental payments and hotel or motel payments during the displacement period. In no event shall the property owner be liable for making payments in excess of the amount the tenant household would receive in the case of permanent displacement as set forth in subsection A of this section.
- C. Immediate Vacation. When the condition of a room or rental unit is a danger to the public health and safety such that the city requires immediate vacation, i.e., vacation with less than thirty (30) days advance notice either from the city or from the property owner to the tenant household of the need to vacate, an eligible tenant household displaced from such a room or unit shall be entitled to an additional payment from the property owner in the amount of five hundred dollars (\$500.00), in addition to the amounts set forth above. Such additional payment is intended to compensate the tenant household for the additional costs associated with short-notice moves and the added inconvenience of such moves.
- D. Payments for relocation shall not be considered by the city as income or assets for any government benefits program.

15.60.120 - Staff review and appeals.

- A. The City Administrator Housing Official shall be responsible for making an informal determination whether a tenant household is eligible for relocation payments from a property owner under this chapter, and, if so, the payment amount, following any timely claim, complaint, objection or dispute forwarded to the city by either a tenant household or property owner with respect to these issues. The City Administrator Housing Official shall also make a determination with respect to any disputes between a tenant household and a property owner as to the move-back option provided for in Section 15.60.100.
- B. A tenant household should contact the City Administrator Housing Official with any claim, complaint, objection or dispute against the property owner within a reasonable time after the property owner has failed to pay the required relocation benefits within the applicable time period specified in Section 15.60.070 or has otherwise failed to comply with this chapter. Failure to contact the City Administrator Housing Official within a reasonable time as determined by the City Administrator Housing Official may be deemed a waiver of the tenant

household's claim to relocation benefits, unless the tenant household can demonstrate good cause to the city for the delay.

- C. A property owner should contact the City Administrator Housing Official within a reasonable time after a tenant household has made a demand on the property owner for relocation benefits, if the property owner believes that the tenant household is not eligible for any or all of such payments under this chapter. In addition, a property owner should immediately contact the City Administrator Housing Official after notification by the city that the city is considering payment of relocation benefits on behalf of the owner under Section 15.60.080, if the property owner believes that the tenant household is not eligible for any or all of such payments under this chapter. Failure to contact the City Administrator Housing Official within a reasonable time as determined by the City Administrator Housing Official may be deemed a waiver of the property owner's right to challenge tenant eligibility for benefits, unless the property owner can demonstrate good cause to the city for the delay.
- D. The City Administrator Housing Official shall make reasonable efforts to contact a representative of both the property owner and the tenant household and afford each party a reasonable opportunity to present responses and supporting information prior to making a determination (except where the need for immediate vacation makes prior notice to the property owner of city payments to tenant households not reasonably possible). The City Administrator Housing Official shall make his or her determination based on the provisions of this chapter, the rules and regulations adopted pursuant to this chapter, and the factual information submitted by the parties or otherwise readily available, and shall communicate his or her determination to representatives of the property owner and the affected tenant household.
- E. When the property owner or tenant household wishes to contest a determination regarding eligibility or relocation payment amounts made by the City Administrator Housing Official, such party should file a written request for a hearing with the Relocation Appeals Board within seven days of the determination. Any property owner requesting such an appeal must first deposit with the City Administrator Housing Official the full unpaid amount in dispute, unless the property owner can demonstrate significant hardship or other extraordinary circumstances to the City Administrator Housing Official that would justify a waiver of such deposit. The Relocation Appeals Board shall hold a hearing and shall use reasonable efforts to render its decision on any such appeal within thirty (30) days of a timely hearing request the Board's decision shall be final, and there shall be no appeal to the City Council. All notices from the Relocation Appeals Board shall be sent to both the property owner and all tenant households affected by the appeal.
- F. Nothing in this chapter shall in any way preclude or limit any aggrieved party from seeking judicial review after such person has exhausted the administrative remedies provided herein. However, it shall be conclusively presumed that a litigant has not exhausted his/her administrative remedies as to any issue which is not raised in the administrative proceedings authorized herein.
- G. The City Administrator shall develop rules and regulations to define reasonable times to respond or exercise rights under this Chapter.

15.60.130 – Violation – Penalty.

Any person violating any provision or failing to comply with any of the requirements of this chapter shall be guilty of an infraction.

A. Criminal Penalties

- a. Infraction. Any property owner violating any provision or failing to comply with any requirements of this chapter shall be guilty of an infraction for the first offense.
- b. Misdemeanor. Any property owner violating any provision or failing to comply with any requirements of this chapter multiple times shall be guilty of a misdemeanor.

B. Administrative Penalties

- a. Administrative citation. Any person violating any provision or failing to comply with any requirements of this chapter may be assessed an administrative citation pursuant to O.M.C. Chapter 1.12 for the first offense.
- b. Civil penalties. Any person violating any provision or failing to comply with any requirements of this chapter multiple times may be assessed a civil penalty for each violation pursuant to O.M.C. Chapter 1.08.

C. Violation includes attempted violation. In addition to failing to comply with this chapter, it is also violation to attempt to have a tenant accept terms that fail to comply with this chapter, including any of the following actions:

- a. Asking the tenant to accept an agreement that pays less than the required relocation payments;
- b. Asking the tenant to accept an agreement that waives the tenant's rights; or
- c. Upon a return to the unit, asking the tenant to pay a higher rent than is permitted under this chapter or O.M.C. Chapter 8.22.

15.60.140 - ~~Private right of action~~ Civil Remedies.

- A. Any person or organization who believes that a property owner or tenant household has violated provisions of this chapter or the program rules and regulations adopted pursuant to this chapter shall have the right to file an action for injunctive relief and/or actual damages against such party. Whoever is found to have violated this chapter shall be subject to appropriate injunctive relief and shall be liable for damages, costs and reasonable attorneys' fees. Treble damages shall be awarded for a property owner's willful failure to comply with the payment obligation established under this chapter.
- B. Nothing herein shall be deemed to interfere with the right of a property owner to file an action against a tenant or non-tenant third party for the damage done to said owner's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.
- C. The city attorney may bring an action against a property owner that the city attorney believes has violated provisions of this chapter or any program rules and regulations adopted pursuant to this chapter. Such an action may include injunctive relief and recovery of damages.

penalties-- including any administrative citations or civil penalties-- treble damages, and costs and reasonable attorney's fees. The city attorney has sole discretion to determine whether to bring such an action, and shall prioritize any actions based on whether the property owner has committed multiple violations.

15.60.150 - Delegation.

The City Administrator Housing Official is authorized to create a code enforcement relocation program and to adopt and amend program rules and regulations consistent with this chapter.

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 3. Effective Date. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

SECTION 4. This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to, but not limited to, the following CEQA Guidelines: § 15378 (regulatory actions), § 15061(b)(3) (no significant environmental impact), and § 15183 (consistent with the general plan and zoning).

SECTION 5. Grandparented relocation payments. The Ordinance amendments provided for in this Ordinance shall not apply to any relocation payments for code compliance repairs for which a unit was vacated, or for which a notice to vacate was issued to tenant, prior to adoption of the Ordinance by City Council.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN,
REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

AN ORDINANCE TO AMEND THE CODE ENFORCEMENT RELOCATION PROGRAM, O.M.C. CHAPTER 15.60, TO: (1) INCREASE RELOCATION PAYMENTS FOR TENANTS DISPLACED FOR CODE COMPLIANCE REPAIRS; (2) REDEFINE TENANT ELIGIBILITY FOR RELOCATION PAYMENTS TO EXPAND ELIGIBILITY FOR SUCH PAYMENTS AND (3) ENHANCE PENALTY PROVISIONS AND REMEDIES FOR VIOLATIONS OF O.M.C. CHAPTER 15.60

The Ordinance amends the Oakland Municipal Code to: increase relocation payments for tenants who are displaced because of code compliance repairs and redefine and expand tenant eligibility for relocation payments.