



CITY OF OAKLAND

AGENDA REPORT

TO: City Council

FROM: Barbara J. Parker
City Attorney

SUBJECT: San Francisco Foundation Equity Grant to
City Attorney

DATE: June 30, 2020

RECOMMENDATION

City Attorney Barbara J. Parker requests that the City Council pass the following resolution which will authorize the City Administrator to accept and appropriate a \$100,000 grant from the San Francisco Foundation for the Office of the City Attorney to advance racial equity by expanding enforcement of the City's Tenant Protection Ordinance:

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND APPROPRIATE GRANT FUNDS FROM THE SAN FRANCISCO FOUNDATION IN THE TOTAL AMOUNT OF ONE HUNDRED THOUSAND DOLLARS (\$100,000) FOR THE OAKLAND CITY ATTORNEY TO ADVANCE RACIAL EQUITY THROUGH EXPANDED ENFORCEMENT OF THE TENANT PROTECTION ORDINANCE

EXECUTIVE SUMMARY

The City Attorney recommends that the Council pass the subject resolution which will authorize the City Administrator to accept and appropriate a \$100,000 grant from the San Francisco Foundation. This grant to the Office of the City Attorney will advance racial equity by expanding the enforcement of the City's Tenant Protection Ordinance (Oakland Municipal Code Chapter 8.22) and defending the right to safe, healthy, and dignified homes for low income African American, Latino and other communities of color.

OUTCOME

The Council's approval of the proposed resolution will provide critical funding to enable the City Attorney to increase the Office's capacity to enforce the Tenant Protection Ordinance, preventing illegal harassment and the wrongful displacement of tenants in Oakland.

LEGISLATIVE HISTORY AND BACKGROUND

Oakland's rising rents have exacerbated tensions between property owners and tenants residing in units that are rent-controlled or covered by Oakland's Just Cause for Eviction Ordinance. By evicting tenants, property owners often can increase the return on their investment by selling the property without tenants or re-renting the units at higher market rates. Once tenants are evicted,

Item: _____
City Council
June 30, 2020

it is very challenging for them to re-enter the Oakland rental housing market because of skyrocketing rents. Tenants may become unhoused or their only option may be to find housing outside of Oakland. The Tenant Protection Ordinance is a critical tool that can help to preserve our diverse Oakland community in areas such as race, gender, age, sexual orientation, incomes, and professions.

To address wrongful eviction of tenants, the Oakland City Council enacted the Tenant Protection Ordinance (Oakland Municipal Code [“OMC”] section 8.22.600 et seq.) in November 2014 to deter harassing behavior by landlords, encourage landlords to follow the law and uphold their responsibility to provide habitable rental properties, and to provide tenants legal recourse when they are subjected to harassing behavior by landlords.

Recognizing the importance of strong enforcement, the Tenant Protection Ordinance authorizes the City Attorney to file civil actions when a landlord has exhibited a pattern and practice of violating the ordinance.¹ The Oakland City Attorney is in a unique position to enforce the Tenant Protection Ordinance because of our Office’s authority to secure early injunctive relief, impose civil penalties, and bring actions on behalf of the People of California and the City of Oakland.

Since the Tenant Protection Ordinance took effect, the City Attorney’s Office has enforced tenant rights by issuing warning and demand letters and initiating civil lawsuits. Our actions have prevented wrongful displacement, improved living conditions, and held owners accountable for severe harassment and misconduct.

The San Francisco Foundation is committed to supporting this work. The Foundation’s \$100,000 grant provides funding to the City Attorney to advance racial equity through increased enforcement of the Tenant Protection Ordinance.

ANALYSIS

Oakland has one of the highest percentages of renters in the Bay Area at close to 60%. Roughly a quarter of Oakland’s households are “housing insecure...facing high housing costs in proportion to income, poor housing conditions, unstable neighborhoods, overcrowding, or homelessness.”²

¹ The City Attorney may enforce the Tenant Protection Ordinance by filing civil actions for injunctive relief or damages, or both, when a landlord/owner has exhibited a pattern and practice of violating the ordinance. The City Attorney also may request that the City issue an administrative citation or impose a civil penalty. The City Attorney has sole discretion to determine which cases are appropriate for enforcement by the City Attorney's Office. (OMC 8.22.670(A)(2).)

² Oakland At Home: Recommendations for Implementing A Roadmap Toward Equity from the Oakland Housing Cabinet. (March 2016). *available at* <https://www.enterprisecommunity.org/download?fid=1345&nid=4354>

And in the past two years alone, Oakland has seen a 47% increase in homelessness.³ The homeless population in Alameda County is disproportionately African American. The housing crisis has hit low-income tenants and communities of color the hardest. People of color in Oakland disproportionately rent, are rent burdened, live in overcrowded conditions, receive eviction notices, and are unhoused.⁴ African American residents are 24% of Oakland's population but 70% of Oakland's unhoused.⁵ African American residents are therefore three times overrepresented among the unhoused. According to the City of Oakland 2019 Homeless Count & Survey, 78% of Oakland's unhoused population resided in Alameda County prior to experiencing homelessness and more than half had lived in Alameda County for over a decade.⁶ Forty-three percent (43%) reported they grew up in the area and/or considered it their home.⁷ Because equity is just and fair inclusion in a society through which all can participate, prosper, and reach their full potential, protecting housing for low income African American, Latino and other communities of color is central to achieving it.

As a recent Policy Link/San Francisco Foundation/USC PERE report emphasized, “[t]he immediate challenges of eviction and displacement should be addressed with a ‘protection first’ approach to stem the tide of displacement while efforts to preserve and construct housing are underway.”⁸ According to a 2019 survey of ten homeless encampments in Oakland, eviction is one of the top three causes of homelessness.⁹ Recently, Oakland's Housing Implementation Cabinet established a goal of protecting 17,000 affordable homes and identified “strengthen[ing] enforcement of renters’ protections” as one of its seven final recommendations.¹⁰

This imperative for City protection of Oakland residents’ right to safe, healthy, and dignified housing has only become more urgent as a result of the COVID-19 crisis. Recognizing the severe public health and safety consequences of the COVID-19 pandemic, the Oakland City Council declared an emergency eviction moratorium on March 27, 2020 to “prevent displacement, reduce

³ Oakland Homelessness Surges 47% - Per-Capita Number Now Higher Than SF and Berkeley. (July 2019) *San Francisco Chronicle*. available at <https://www.sfchronicle.com/bayarea/article/Oakland-homelessness-surges-47-per-capita-14115123.php>

⁴ Oakland Equity Indicators Report (2018). available at <https://www.oaklandca.gov/documents/2018-oakland-equity-indicators-report>

⁵ City of Oakland 2019 Homeless Census & Survey. available at <https://cao-94612.s3.amazonaws.com/documents/Oakland-Homeless-Count-Survey-Report-2019-Final.pdf>; see also Dereck W. Paul Jr., Kelly R. Knight, Pamela Olsen, John Weeks, Irene H. Yen & Margot B. Kushel (2019): Racial discrimination in the life course of older adults experiencing homelessness: results from the HOPE HOME study, *Journal of Social Distress and the Homeless*, DOI: 10.1080/10530789.2019.1702248

⁶ 2019 Homeless Census & Survey, *supra* at 5.

⁷ *Id.*

⁸ Solving the Housing Crisis Is Key to Inclusive Prosperity in the Bay Area. (April 2018). available at <https://www.policylink.org/resources-tools/solving-housing-crisis-bay-area>

⁹ Tsai, Tim (2019) “Standing Together: A Prevention Oriented Approach to Ending Homelessness in Oakland,” available at <https://www.justcities.work/resources>.

¹⁰ Oakland at Home, *supra* at 2.

transmission of the novel Coronavirus (COVID-19), and promote the stability and the health and safety of residents” during the crisis.¹¹ On May 19, 2020, the Council extended the moratorium through August 31st.¹² City Attorney Parker co-sponsored both of these critical moratoriums. The Council also declared a local health emergency on May 19, 2020 for Oakland’s African American residents due to the devastating and disparate impact of COVID-19.¹³ Alameda County Health Care Services Agency officials declared that “in a public health emergency of this magnitude, we are only as healthy as those who are most vulnerable and insecure [...] Loss of stable housing [...] poses numerous health risks, both for the individuals directly affected and for the larger population. Loss of housing disrupts a family’s and/or individual’s ability to shelter in place and practice social distancing, which increases the likelihood of disease transmission.” The Alameda County Health Care Services Agency further underscored “the importance of robust emergency measures to ensure housing stability for low-income individuals and people experiencing or in danger of homelessness.”¹⁴

During the moratorium the Office of the City Attorney and non-profit partners have observed an alarming rise in “self-help” evictions by landlords.¹⁵ Such illegal and dangerous actions include locking tenants out of their homes and shutting off critical utilities like electricity, gas, and water.¹⁶

In these dire circumstances, the San Francisco Foundation has stepped forward to provide funding to expand the City Attorney’s capacity to protect tenants’ rights in Oakland. Such public/private/nonprofit partnerships allow governments to marshal the expertise, human capital, and financial resources of the private and non-profit sectors. These cross-sector collaborations

¹¹ Eviction Moratorium Emergency Ordinance. March 27, 2020. *available at* <https://oakland.legistar.com/LegislationDetail.aspx?ID=4406542&GUID=EAF35294-F356-4895-A87A-0C1B9CE4D0C3&Options=&Search=>

¹² Extension of Eviction Moratorium Emergency Ordinance. May 19, 2020. *available at* <https://oakland.legistar.com/LegislationDetail.aspx?ID=4536924&GUID=E331AC8B-A71F-4719-BB45-3B73A94B6AC4&Options=&Search=>

¹³ Local Health Emergency for Oakland’s African-American (Black) Residents. May 19, 2020 *available at* <https://oakland.legistar.com/LegislationDetail.aspx?ID=4537568&GUID=6B1B1D7F-65DF-46F0-8543-8C1AC2117F55&Options=&Search=>

¹⁴ “Public Health Impact of the Countywide Eviction Moratorium.” April 16, 2020. *available at* http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_04_21_20/GENERAL%20ADMINISTRATION/Regular%20Calendar/CDA_294956.pdf

¹⁵ This rise is anecdotally reflected in the Bay Area and nationwide. *See* Emma Ockerman, “Landlords Can’t Evict Their Tenants, So They’re Shutting off Utilities and Threatening Them Instead.” *Vice News*. May 21, 2020. https://www.vice.com/en_us/article/889akg/landlords-cant-evict-their-tenants-so-theyre-shutting-off-utilities-and-threatening-them-instead; *see also* Greg Lee, “Landlords ‘Taking the Law Into Their Own Hands’ During Coronavirus Pandemic.” *KTVU2*. May 20, 2020.

<https://www.ktvu.com/news/landlords-taking-the-law-into-their-own-hands-during-coronavirus-pandemic>

¹⁶ For an example of a lawsuit filed by the City Attorney’s office concerning a self-help eviction, see *People v. Odiwe, et al.* (RG20061699).

https://www.oaklandcityattorney.org/News/Press%20releases/Emergency_Tenant_Protection.html

also can support innovation, flexibility, and increase the positive impacts. The San Francisco Foundation is committed to a bold equity agenda that advances greater racial and economic inclusion for everyone in the Bay Area. The San Francisco Foundation's Place (Anchoring Communities) Pathway is working to prevent the displacement of low-income people and communities of color so that the Bay Area's neighborhoods are places where all residents can live, work, thrive and create. As a result, the San Francisco Foundation has committed \$100,000 to support City Attorney enforcement of the Tenant Protection Ordinance.

FISCAL IMPACT

This grant will not cost the City anything; rather it will make our enforcement of the Tenant Protection Ordinance more efficient and effective. The San Francisco Foundation grant will fund investments in City Attorney capacity for housing work.

PUBLIC OUTREACH / INTEREST

The 2018 City of Oakland Budget Priorities Survey underscores community interest in and support for greater City enforcement of the Tenant Protection Ordinance.¹⁷ Seventy-five percent ("75%") of respondents consider homelessness or housing one of the top two issues they would like the City to address in the City's next budget. Sixty-three ("63%") of respondents are willing to pay more for rent control enforcement and tenant protection. And seventy-one percent ("71%") of respondents believe addressing housing displacement among people of color is extremely important or very important.

COORDINATION

The City Attorney partnered with the Department of Race and Equity in developing the grant application and discussed the grant with the City Administrator.

SUSTAINABLE OPPORTUNITIES

Economic: The grant award will enable the City Attorney to provide more targeted and effective enforcement of the Tenant Protection Ordinance. City Attorney intervention can prevent tenant displacement, which may lead to homelessness, loss of employment, displace families from their neighborhoods and disrupt their children's education and otherwise negatively impact an individual's opportunity to improve their economic situation. Often City Attorney enforcement is coordinated with the tenants' own private actions, strengthening their claims and potentially leading to higher financial compensation.

¹⁷ City of Oakland Budget Priorities Survey. (April 2019) *available at* <https://www.oaklandca.gov/documents/2018-city-of-oakland-budget-priorities-survey>

Environmental: Tenant displacement may force individuals to leave rent-controlled housing. Many Oakland residents cannot afford market rate housing in their communities, and therefore must move to more affordable areas if they are displaced. This may cause them to live further away from where they work, potentially leading to longer commutes and more cars on the road.

Housing is also a health issue. Displacement can lead to homelessness, and the average life expectancy of people without housing falls by as much as 27 years.¹⁸

Race and Equity: The grant award will assist the City Attorney in enforcing the basic rights of vulnerable tenants, especially low-income African American, Latino and other communities of color. The July 2018 Oakland's Equity Indicators Project revealed deep inequities in housing, with an overall score of 36.8 on a spectrum of 0 (total inequity) to 100 (total equity). People of color in Oakland disproportionately rent, are rent burdened, live in overcrowded conditions, receive eviction notices, and are unhoused. City Attorney enforcement holds owners accountable for wrongful evictions, prevents homelessness, and forces owners to address appalling living conditions.

The recent protests, marches and movement following Mr. George Floyd's murder have highlighted the systemic racism and inequities that African Americans have suffered and combatted since the abolition of slavery in this country, resulting in African Americans disproportionately dying from COVID-19, and disproportionately facing housing insecurity or homelessness. Strengthening the City's protection efforts will advance equity in housing outcomes, which are critical to almost every other form of equity.

ACTION REQUESTED BY THE CITY COUNCIL

The City Attorney requests that the City Council pass a resolution authorizing the City Administrator to accept and appropriate a \$100,000 grant from the San Francisco Foundation for our Office to strengthen and expand our Tenant Protection Ordinance work on behalf of African American, Latino and other low-income communities of color.

¹⁸ This is based on one study of homeless adults finding an average age at death of 51.2 years (Mortality Among Homeless Adults in Boston: Shifts in Causes of Death Over a 15-year Period. (2013). JAMA Internal Medicine. available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3713619/pdf/nihms-493296.pdf>) compared to the average life expectancy in the United States (78.74 years in 2013, according to the World Bank).

For questions regarding this report, please contact Chief Assistant Attorney Maria Bee at (510) 238-3814.

Respectfully Submitted,



Barbara J. Parker
City Attorney