

14 APR -3 PM 3:37

## OAKLAND CITY COUNCIL

Resolution No. 84917 C.M.S.

INTRODUCED BY CITY ATTORNEY BARBARA J. PARKER

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**RESOLUTION TO SUPPORT CALIFORNIA ASSEMBLY BILL NO. 2310 IMMEDIATELY REINSTATING SECTION 3485 TO THE CALIFORNIA CIVIL CODE WHICH AUTHORIZES CITY ATTORNEYS TO FILE AN ACTION FOR UNLAWFUL DETAINER TO ABATE A NUISANCE CAUSED BY ILLEGAL CONDUCT INVOLVING WEAPONS OR AMMUNITION ON REAL PROPERTY**

**WHEREAS**, existing law defines nuisance and includes within this definition anything which is injurious to health, including the illegal sales of controlled substances; and

**WHEREAS**, existing law provides that a tenant who permits a nuisance to be maintained on leased property is guilty of unlawful detainer and may be evicted; and

**WHEREAS**, until January 1, 2014, the state law (Civil Code Section 3485) authorized a city prosecutor or city attorney to file, in the name of the People, an action for unlawful detainer to abate nuisance caused by illegal conduct involving unlawful weapons or ammunition on real property; and

**WHEREAS**, this bill would reenact provisions authorizing a city prosecutor or city attorney in specified counties to file an action for unlawful detainer to abate a nuisance caused by illegal conduct involving unlawful weapons or ammunition on real property; and

**WHEREAS**, the bill would apply to the Counties of Alameda (only cases arising in Oakland), Los Angeles, San Diego, and Sacramento; and the City Council wishes to ensure Oakland remains a part of the legislation; and

**WHEREAS**, in Alameda County the bill would expressly apply only to the City of Oakland; and

**WHEREAS**, the bill would reinstate the authority to the City Attorney to bring actions against nuisance tenants that the Oakland Nuisance Eviction Ordinance (OMC 8.23.100) does not provide; and

**WHEREAS**, the bill would require the action to be based on an arrest report or other report as specified; and

**WHEREAS**, the bill would require that, prior to filing an action the City provide specified notice to the owner of the property, requiring removal of the person who is violating specified law, and the bill also would require that notice be served; and

**WHEREAS**, Oakland has experienced problems with violence, weapons, and the illegal possession of ammunition related criminal activity occurring on real property; and

**WHEREAS**, these illegal activities jeopardize the health, safety, and welfare of other occupants of the rental property and the surrounding community; and

**WHEREAS**, property owners have an obligation to keep their properties safe for all tenants and their visitors and to keep their properties free of nuisances; and

**WHEREAS**, the City Council believes that requiring real property owners to evict tenants engaged in illegal activity on the premises will assist the City in removing weapons and illegal ammunition from real properties and that owners who have safety concerns regarding the evictions are able to assign the evictions to the City Attorney, and owners who refuse to do either should be subject to citation, civil penalties, and other penalties or legal actions for failing to abate the nuisance of tenants engaging in illegal activities; and

**WHEREAS**, property owners have an obligation to remove tenants engaging in illegal activity that jeopardizes the health, safety, and welfare of other tenants and the surrounding community; and

**WHEREAS**, some rental property owners may be reluctant to evict tenants engaged in illegal activity fearing retribution towards the owners, their families, employees, or other tenants; and

**WHEREAS**, the City Attorney should be authorized to issue nuisance eviction notices to tenants that are keeping illegal weapons and ammunition on the premises of real properties; and

**WHEREAS**, the bill permits the recovery of the costs of investigations, discovery, and reasonable attorney's fees; now therefore be it

**RESOLVED:** that the City of Oakland supports Assembly Bill No. 2310 immediately reinstating Section 3485 to the California Civil Code to include the City of Oakland and authorizing the Oakland City Attorney to file an action for unlawful detainer to abate a nuisance caused by illegal conduct involving weapons of ammunition on real property.

IN COUNCIL, OAKLAND, CALIFORNIA,

APR 01 2014

PASSED BY THE FOLLOWING VOTE:

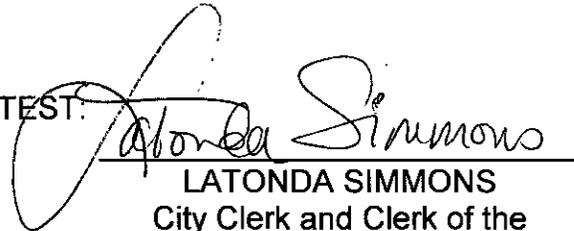
AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF AND PRESIDENT KERNIGHAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



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