



# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Claudia Cappio  
Assistant City Administrator

**SUBJECT:** Election Code 9212 Staff Report  
Regarding Renters Ballot Initiative

**DATE:** June 7, 2016

City Administrator Approval

Date:

6/9/16

## RECOMMENDATION

**Staff Recommends That The City Council Receives a Report Analyzing the Circulating Ballot Measure Concerning Renter Protections under the Provisions of Elections Code Section 9212 and Specifically Including Consistency with the City's Charter and Other Ordinances.**

## EXECUTIVE SUMMARY

Section 9212 of the California Elections Code provides that a city's legislative body may request staff to prepare an analysis of a circulating ballot initiative. In addition to the elements of analysis specified in Section 9212 (full text below), the legislative body may direct that "any other matters" be addressed in the report. The Section provides that the report is presented either (a) when the legislative body directs it be provided or (b) within 30 days after the petition is certified. This staff report follows the elements of Section 9212 and includes information from the analysis provided in the May 24<sup>th</sup> CED Report titled "Informational Report to the Oakland Renters Act." The legal analysis will be provided separately.

## BACKGROUND / LEGISLATIVE HISTORY

An initiative titled "Proposed Amendments to Oakland's Residential Rent Adjustments and Evictions Ordinance, Oakland Municipal Code Chapter 8.22" (the Initiative) was authorized for circulation following the City Attorney's preparation of a title and summary. Consistent with the provisions of Elections Code Section 9212, the Community and Economic Development (CED) Committee requested that the City Council direct staff to prepare and present an analysis of the Initiative for the June 21, 2016 City Council meeting. On June 7, 2016, the City Council exercised its option to direct staff to prepare a report of potential impacts of the Initiative pursuant to the California Election Code Section 9212.

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The provisions of California Elections Code Section 9212 are:

- (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any City agency or agencies for a report on any or all of the following:
  - (1) Its fiscal impact.
  - (2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
  - (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.
  - (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
  - (5) Its impact on the community's ability to attract and retain business and employment.
  - (6) Its impact on the uses of vacant parcels of land.
  - (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
  - (8) Any other matters the legislative body requests to be in the report.
- (b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

## **ANALYSIS AND POLICY ALTERNATIVES**

### **High Level Summary of the Proposed Initiative**

The major changes that would result from the Initiative include the following (as described in the May 24<sup>th</sup> CED Committee report):

- (1) Noticing Requirements (pre- and post- eviction)
- (2) Board Independence from the City Council, City Administrator, and City Attorney
- (3) Staff Organization, Staffing Assigned to the Program, and Workflow
- (4) Timing
- (5) Financial Considerations:
  - (a) Fees to support staff, increases, and no pass through
  - (b) CPI Increases – New formula
  - (c) Fair Return Petition Process – likely increased burdens/obligations for hearings
  - (d) No substantial rehabilitation pass through to tenants

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- (6) Extending the Just Cause for Eviction Ordinance to All Newly Constructed Units
- (7) Limitations on the number of times an owner can move back into a unit once they move out.

**Analysis of Proposed Initiative (organized by element of Elections Code 9212)**

As stated in the Background Section of this report, the California Election Code Section 9212 includes many elements to be evaluated. Table 1 below summarizes the findings related to the Section 9212 elements. The legal findings are not summarized in this report.

**Table 1: Summary of Findings – Elections Code Section 9212 on the Proposed Renters Ballot Initiative**

Element / Chapter Subsection	Finding
<i>Fiscal Impact</i>	
Fiscal Impact	Please see the "Staff, Administration, Organizational, and Budget Changes" Subsection of the May 24 <sup>th</sup> CED Report titled "Informational Report to the Oakland Renters Act" report for the full Fiscal Impact calculations. It is estimated that the proposed Initiative could cost approximately \$24.17 Million annually which translates to an estimated property owner fee of \$247 per unit per year. With the proposed no pass through provision, property owners would bear the entire fee burden.
<i>Internal Consistency with City-Adopted Plans</i>	
General Plan	No direct inconsistencies with General Plan.
Housing Element	Consistent with Housing Element Policies of actions to decrease displacement; preserve affordable rental housing and preserve at-risk housing. Could also be interpreted to be an additional governmental barrier for construction of rental housing.
Specific Plans	Same as above
Zoning Ordinance	No inconsistencies with Specific Plans.
Government Code Section 65008	This law prohibits any municipality from engaging in discriminatory behavior. This section is not applicable to this Initiative.
Government Code Section 65913 – Housing Development Approvals	The Initiative would not directly interfere with any aspect of local authority to approve rental housing projects or to zone land for residential use.
Government Code Section 65915 – Density Bonuses and other Incentives	The Initiative would not directly affect the ability to obtain density bonuses and other incentives to construct affordable housing.
<i>Impact on Use of Land and the Availability of Housing</i>	
Impact on the Use of Land	The Initiative does not have any bearing on the use of land. Rather it focuses on new or existing rental housing units and measures which can be taken to protect renters.
Impact on the Availability of Housing	The Initiative does not provide more housing. It extends existing protections to more people and it expands the number of tenant protections available to those covered.

Element / Chapter Subsection	Finding
Impact on City's Ability to Meet Regional Housing Needs	The Initiative provides additional protections to existing tenants in units covered by the RAP program and Just Cause. It also extends those protections to an additional 1,222 units for the RAP program and 10,561 for Just Cause protections. The calculations for this are provided on page 4 of the May 24 <sup>th</sup> CED Report titled "Informational Report to the Oakland Renters Act" report.
<i>Infrastructure</i>	
Impact on Infrastructure (transportation, parks, etc.)	The Initiative may lower the incentive for property owners to maintain rental units due to increased restrictions on capital improvement pass throughs and the removal of the substantial rehabilitation exemption from the Rent Stabilization Ordinance.
Impact on Infrastructure Costs	Same as above. Staff found no impact on the public infrastructure costs.
<i>Business Attraction, Retention, and Employment</i>	
Impact on Business Attraction	The Initiative may create more stable rents and may allow tenants to spend more of their income on non-housing goods. More income spent on non-housing goods may encourage businesses to move to Oakland. However, this Initiative may also discourage property owners and developers from creating new rental units due to removal of the new construction exemption.
Impact on Business Retention	The Initiative may lower the incentive for property owners to rent housing units due to increased regulations on rent increases. Conversely, the Initiative would limit annual rent increases thus creating more stable rents. More stable rents may allow tenants to spend more of their income on non-housing goods, potentially helping retain local businesses.
Impact on Employment	The initiative would limit annual rent increases which could encourage more of the Oakland workforce to live in Oakland.
<i>Vacant Land</i>	
Impact on Uses of Vacant Parcels of Land	Staff found no impact to the use of vacant land from this Initiative.
<i>Agricultural Lands, Open Space, Traffic Congestion, Existing Business Districts, and Revitalization Areas</i>	
Agricultural Lands	Staff found no impact to agricultural lands from this Initiative.
Open Space	Staff found no impact to open space from this Initiative.
Traffic Congestion	Staff found no impact to traffic congestion from this Initiative.
Existing Business Districts	Staff found no impact to existing business districts from this Initiative.
Areas Designated for Revitalization	Staff found no impact to areas designated for revitalization from this Initiative except for the potential impact (speculative at this point) that extension of the Just Cause provisions could be viewed as a disincentive to develop rental housing from a developer or investor point of view.

Element / Chapter Subsection	Finding
<i>Other Factors</i>	
Legal Considerations	The legal analysis will be provided in a separate report.

**FISCAL IMPACT**

There is no fiscal impact for this report.

**PUBLIC OUTREACH**

No public outreach necessary beyond the standard City noticing process.

**COORDINATION**

The Office of the City Attorney was consulted in the preparation of this report.

**SUSTAINABLE OPPORTUNITIES**

**Economic:** No economic opportunities have been identified.

**Environmental:** No environmental opportunities have been identified.

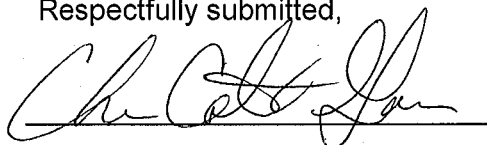
**Social Equity:** No social equity opportunities have been identified.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Receives a Report Analyzing the Circulating Ballot Measure Concerning Renter Protections under the Provisions of Elections Code Section 9212 and Specifically Including Consistency with the City's Charter and Other Ordinances.

For questions regarding this report, please contact Claudia Cappio, Assistant City Administrator, at (510) 238-3301.

Respectfully submitted,

 s/bd Claudia Cappio

CLAUDIA CAPPIO  
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