

# CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney  
Barbara J. Parker  
City Attorney

(510) 238-3601  
FAX: (510) 238-6500  
TTY/TDD: (510) 238-3254

July 14, 2020

HONORABLE CITY COUNCIL  
Oakland, California 94612

Re: **City Attorney's Report on Tenant Protection, Just Cause & Rent Ordinance Amendments – Item 8 on the July 14, 2020 City Council Agenda**

Dear President Kaplan and Members of the City Council:

We are pleased to present proposed amendments to the Tenant Protection Ordinance (“TPO”) for the Council’s adoption. On June 29<sup>th</sup> the Community and Economic Development Committee unanimously passed a motion recommending adoption of the amendments in the agenda packet and forwarded them to the Council. The ordinance is co-sponsored by the City Attorney, Councilmember Fortunato Bas and President Pro Tempore Kalb.

This ordinance is a critical tool to clearly set forth and protect and enforce tenants’ rights. I co-sponsored the original ordinance with then Councilmember Dan Kalb, and the Council recognized the need for the ordinance, enacting it in 2014.

During the six years since the TPO was enacted, we have filed a number of cases to protect vulnerable tenants who suffered extreme harassment and exploitation. The following are a few examples:

- We brought a lawsuit against a San Francisco Real Estate investor who purchased a 39- unit single room occupancy (“SRO”) hotel in downtown Oakland that was occupied by elderly monolingual Cantonese-speaking tenants. The owner promptly tore down Chinese New Year scrolls and removed over half of the communal bathrooms and kitchens in an effort to drive the tenants to leave.
- We brought a case against the owner of a 96-unit SRO property who exploited vulnerable tenants and rented out severely substandard units for years. The City evacuated the tenants after discovering a contaminated water supply. Through our lawsuit we were successful in getting the court to appoint a

President Kaplan and Members of the City Council

Re: **City Attorney's Report on Tenant Protection, Just Cause & Rent Ordinance Amendments – Item 8 on the July 14, 2020 City Council Agenda**

July 14, 2020

Page 2

receiver. Ultimately, the building was sold and is now will be affordable housing for the next 50+ years.

- We brought an action against an investor who purchased a single-family-home in Adams Point occupied by a senior African-American tenant who had lived there for over two decades with his son. The investor promptly cut off the utilities, changed the locks, threatened the tenant with physical harm, and then demolished the unit in the middle of an eviction lawsuit.
- We brought an action against a group of investors who continue to re-rent out unsafe, substandard properties even after the properties have been red-tagged by the City and tenants have been removed due to unsafe conditions.

The TPO is even more important each day as rents have skyrocketed in our great City and as the COVID-19 pandemic has brought our lives to a screeching halt, shutting down our schools, playgrounds, and businesses, and costing many people their livelihoods and their lives.

To those who would argue that this is not the time to provide tenants with additional protections, I would say this is indeed the time. Tenant harassment is on the rise as some landlords turn to unlawful harassment to drive tenants out during this time when the courts are not processing eviction actions.

In May, my Office filed an emergency Tenant Protection lawsuit against investors who, under the guise of a fraudulent red tag that was posted on the building, removed all of their tenants' belongings and changed the locks. For over a week, the tenants could not access their belongings and many slept on the floor. One of the investors threatened that if the tenants wanted to live "with no windows and no doors and no toilets...that's on them."

In the last two months, we have intervened in a dozen cases involving utility shutoffs, illegal lockouts, unlawful entries, removal of tenants' belongings, and other, sometimes violent efforts to oust tenants from their homes.

We all love Oakland because of the diversity of our residents in terms of race, incomes, and professions. The TPO helps to preserve the Oakland we cherish. When tenants are displaced, they may need to move out of Oakland to locate affordable rental property, or, they may become homeless, shattering their families, disrupting their lives and exacerbating our homelessness crisis. We are painfully aware that due to systemic racism and the long history of legalized discrimination against African Americans, Black people are disproportionately represented among the housing insecure and the homeless. and the percentage of African American residents in Oakland has plummeted over the years. Again, TPO is an important tool to protect tenants from those landlords who harass and illegally attempt to evict them. I enjoy visiting San Francisco but I don't want Oakland's demographics to become like San Francisco's.

President Kaplan and Members of the City Council

Re: **City Attorney's Report on Tenant Protection, Just Cause & Rent Ordinance Amendments – Item 8 on the July 14, 2020 City Council Agenda**

July 14, 2020

Page 3

The TPO also has been instrumental in protecting Latino and Asian tenants, some of whom do not speak English, or are undocumented and thus vulnerable to harassing behavior.

To be clear the amendments address three categories of issues:

- (1) the amendments conform our ordinances with recent changes in state law;
- (2) the amendments clarify and strengthen the City Attorney's enforcement powers; and
- (3) the amendments clarify the TPO in terms of the applicable requirements and tenants' rights and add certain protections that are needed in light of the issues that have been identified since the Council adopted the TPO in 2014.

Many emails have stated that there are 65 amendments. This is misleading because many of the amendments merely clarify existing language.

Also, representatives of my Office and the co-sponsors met with East Bay Rental Housing Association, the Jobs & Housing Coalition, and Bridge Housing, and exchanged emails and phone calls with other interested parties including EBHO, Mercy Housing, the Oakland Tenant's Union, and ACCE. We also worked with tenant advocates and affordable housing providers.

Lastly, Oakland residents have overwhelmingly expressed their desire to increase protection for tenants. Seventy-five percent (75%) of the respondents to Oakland's 2018 Budget Priorities Survey considered homelessness or housing one of the top two issues they wanted the City to address in the Council's Biennial Budget for Fiscal Years 2019-2020; Seventy-one percent (71%) believed addressing housing displacement among African American, Latino, Asian and other people of color is extremely important or very important.

I thank Councilmember Fortunato Bas and President Pro Tempore Kalb for co-sponsoring the TPO amendments with me. And I thank Supervising Deputy City Attorney Laura Lane and Deputy City Attorneys Kent Qian and Oliver Luby for their tireless work on the ordinance.

President Kaplan and Members of the City Council

Re: **City Attorney's Report on Tenant Protection, Just Cause & Rent Ordinance Amendments –  
Item 8 on the July 14, 2020 City Council Agenda**

July 14, 2020

Page 4

After their opening framing remarks, Supervising Attorney Laura Lane will walk us through the amendments. The power point presentation outlining the amendments is attached to this report.

Very truly yours,

A handwritten signature in blue ink that reads "Barbara J. Parker". The signature is cursive and fluid.

BARBARA J. PARKER  
City Attorney

Attachment: Power Point Presentation

2952929v2



# Tenant Protection, Just Cause, and Rent Ordinance Amendments

---

SPONSORED BY CITY ATTORNEY BARBARA J. PARKER,  
AND COUNCILMEMBERS DAN KALB  
AND NIKKI FORTUNATO BAS

# Purpose of Amendments

---



Expand the protection of the TPO



Provide enhanced protections for vulnerable populations



Improve enforcement mechanisms



Conform to state law

# Elimination of Exemptions

---




Non-profit housing



Newly constructed rental units

# Conduct Prohibited by State Law

---

- Illegal Lockouts
  - Utility Shut-offs
  - Discrimination
  - Elder Financial Abuse
  - Fraud
- 





Video or audio recording inside a tenant's home without a lawful purpose



Unreasonably inquiring into a tenant's relationship status

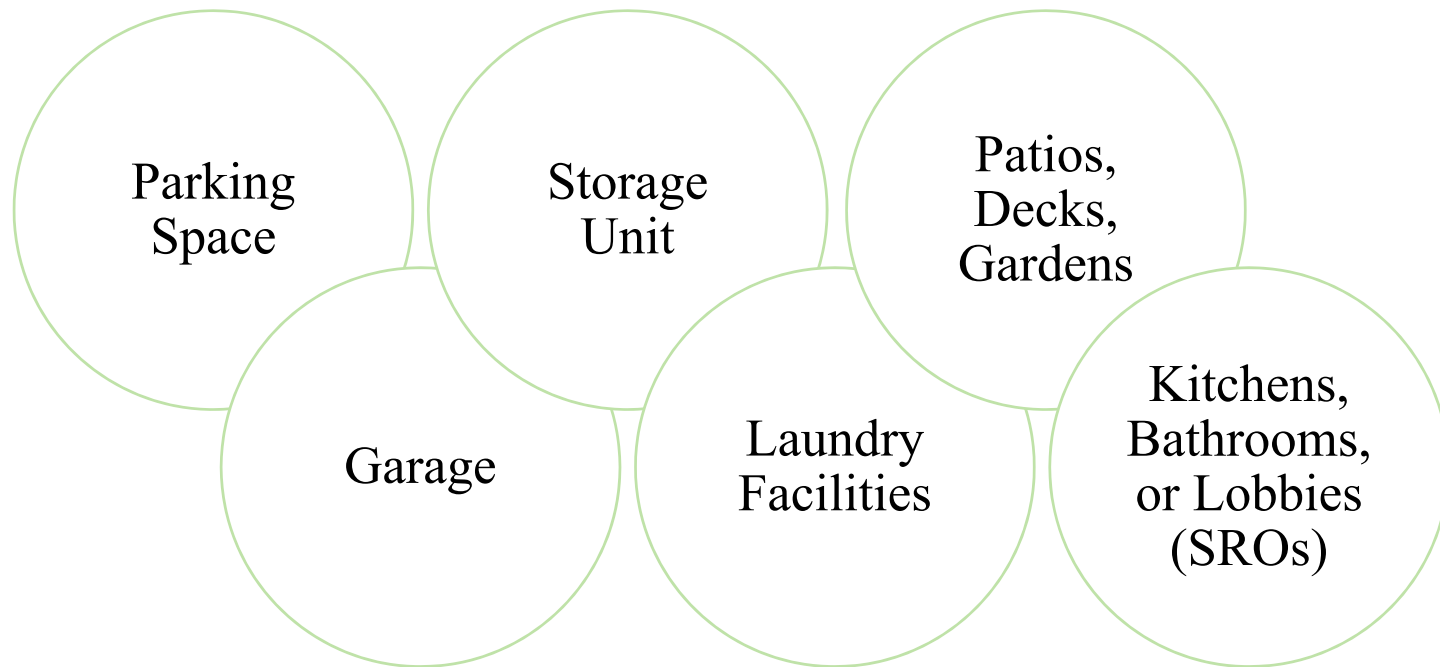


Unreasonably restricting or inquiring about overnight guests

# Invasion of Privacy

# Unilateral Changes to Terms of Tenancy

---



# Increased Minimum Damages

---



\$2,000 for elderly or disabled tenants



\$2,500 for catastrophically ill tenants



\$2,000 minimum damages for threatening to report a tenant to an immigration authority



# Civil Penalties

---

- Court may impose civil penalties of up to \$1,000 per day for each violation of the ordinance if there is a pattern and practice.

# Roommates and Additional Occupants

---



No eviction for adding occupants if Landlord unreasonably refused tenant's written request.

Landlord may petition for 5% rent increase for each additional occupant.

# Late Fees

---



- Maximum late fee is 5% of the total monthly rent up to a maximum of \$50.

# Conformance to State Law

---

- Maximum rent increase is 10% or amount permitted for units subject to California Civil Code 1947.12, whichever is lower.
- Failure to pay required relocation benefits is a defense to eviction.





# No Effect on Emergency Eviction Moratorium Ordinance

---