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# **COVID-19 Eviction Moratorium Phase-Out & Amendments To Just Cause Ordinance**

Council President Nikki Fortunato Bas  
President Pro Tempore Dan Kalb

— CED Meeting, April 11, 2023 —

# **Current Oakland Eviction Moratorium, March 9, 2020**

- **Applies to properties covered by Just Cause Ordinance**
- **Major exemptions:**
  - The landlord lives in the unit with the tenant and shares a bathroom or kitchen; or
  - Property was built in the last 10 years
- **Current causes for eviction:**
  - The tenant created an imminent health/safety threat at the property; or
  - The landlord is removing the unit(s) from the rental market for at least 10 years (Ellis Act)

# **Current Oakland Eviction Moratorium *(continued)***

- **Late fees:**
  - No late fees for unpaid rent may be imposed
- **Current rent restrictions (rent increase moratorium):**
  - For rent-controlled properties, the landlord can raise the rent, but not above the cap of CPI, currently 3%
  - No pass-through increases or banking are allowed
- **Current end date**
  - When City Council ends the Oakland COVID-19 State of Emergency.

# Evictions Declined Dramatically during COVID

**Table 5. Total Eviction Notices Received by Oakland Rent Adjustment Board Annually**

Fiscal Year	Total Eviction Notices Received
2018-19	6714
2019-20	4,696
2020-21	881
2021-22	807

*Source: Annual Report Of The Rent Adjustment Program for Fiscal Years 2020-21 And 2021-22*

# Assistance to Renters & Property Owners

## Emergency Rental Assistance Program (ERAP)

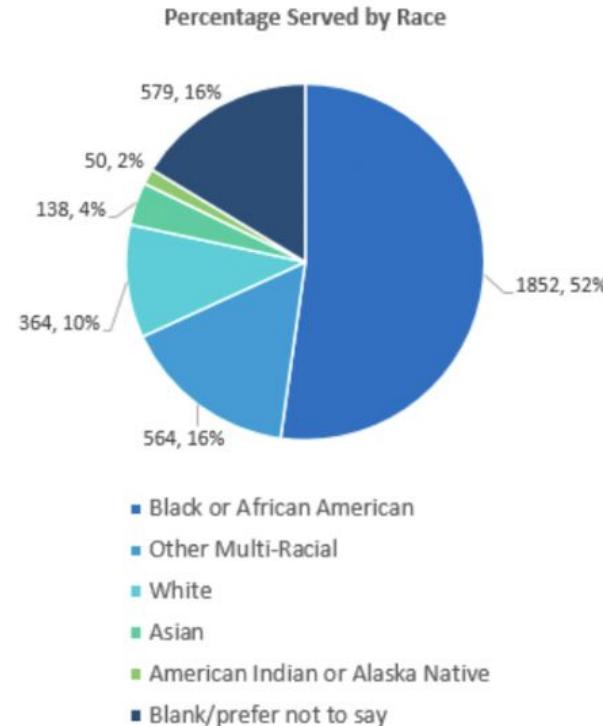
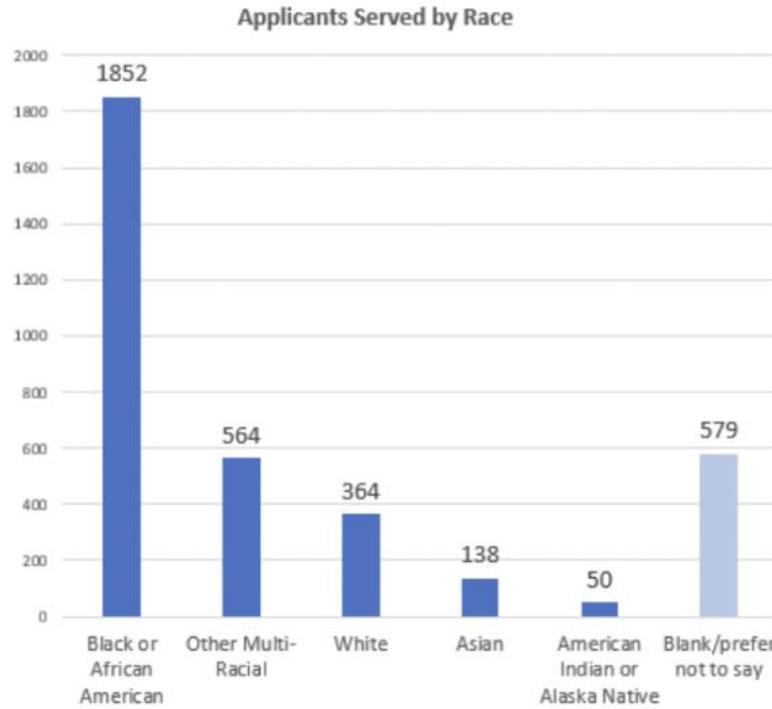
- Oakland has received **\$58.7 million** from the state & federal government.\*
- As of January 24, 2023, there is **\$14,485,942 to be expended** for ERAP waitlist clients. We expect the processing of these applications to take *approximately* seven months to complete by September 1, 2023.\*
- Priority to those **most at risk**: previously homeless, 30% AMI, zip codes with highest COVID infection rates.
- Majority of applicants served are Black or African American at 52%.
- Average household AMI of applicants served is 17.8%.

\*Note: This information is updated since the Agenda Report was published on March 29, 2023

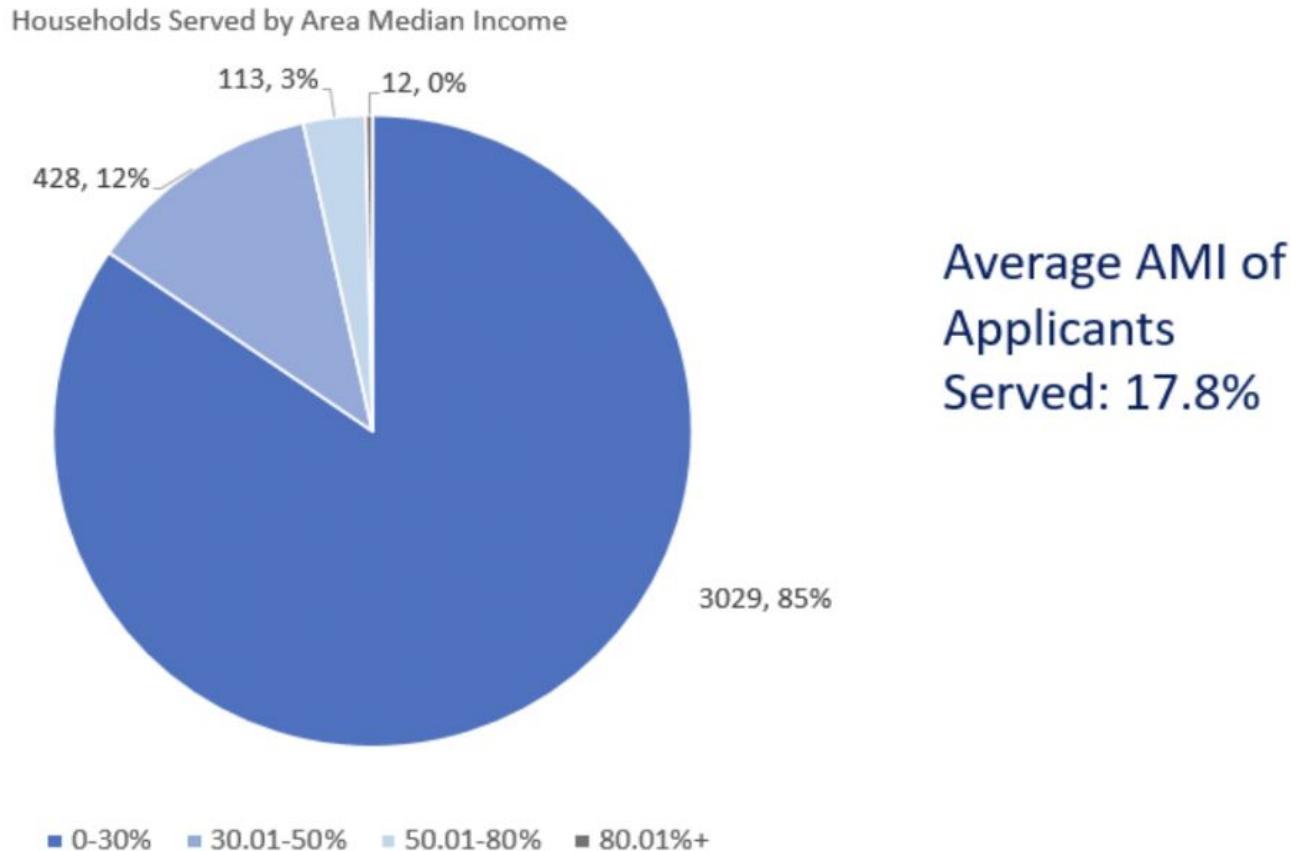
## **Demographic Data — Key Highlights:**

*Source: Housing & Community Development Department, ERAP Update, March 27, 2023*

**Table 2. Applicants Served by Race**



**Table 3. Average Household AMI of Applicants Served**



# **Proposed Phase Out of Eviction Moratorium**

**May 2, 2023** (upon final approval by City Council) **through August 31, 2023**

- All prior provisions remain in effect, except:
  - Evictions for nonpayment of rent where tenant cannot show COVID-19 nexus with inability to pay
    - Applies only to rent covering the month of May 2023 and later.
    - Landlords are allowed to serve 3-day notices to pay rent.
  - Owner-move in evictions are allowed (landlord or their qualified relative will move in) if they only own one residential rental unit in Oakland

# **Proposed Phase Out of Eviction Moratorium *(continued)***

**September 1, 2023\*: Eviction moratorium ends, late fee moratorium ends**

**July 1, 2024: Rent increase moratorium ends**

- Existing rent increase moratorium is a cap on all rent increases above CPI (currently 3%), unless required for a fair return, with no pass-throughs or banking

*\* Notes:*

- ERAP applications should be processed by approximately September 1, 2023
- HCD Staff need time to conduct outreach & education about the end of moratorium
- Alameda County moratorium expires April 29, 2023
- Berkeley moratorium expires September 1, 2023
- San Leandro moratorium expires February 28, 2024

# Proposed Amendments To Just Cause Ordinance

- For evictions based on non-payment of rent that accrued between March 9, 2020 and August 31, 2023, tenant will have a defense if the rent was unpaid due to financial hardship caused by the COVID-19 pandemic. *This provision codifies a protection enacted in March 2020.*
- In order to evict a tenant for breach of lease, the landlord must prove that the breach of lease caused the landlord substantial damage, the tenant acted unreasonably, and the term of tenancy allegedly violated is reasonable. *This provision clarifies the existing substantial/material standard by requiring a showing of harm.*

## **Proposed Amendments To Just Cause Ordinance *(continued)***

- Tenant cannot be evicted for owing less than one (1) month of HUD fair market rent.
- Resident managers cannot be evicted for termination of employment if they were a tenant at the property prior to becoming the manager.
- Conform occupancy limitations to state law.

## **Table 1: HUD Fair Market Rent, FY 2023**



### FY 2023 FAIR MARKET RENT DOCUMENTATION SYSTEM

The FY 2023 Oakland-Fremont, CA HUD Metro FMR Area FMRs for All Bedroom Sizes

Final FY 2023 & Final FY 2022 FMRs By Unit Bedrooms					
Year	Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
FY 2023 FMR		\$1,658	\$1,969	\$2,405	\$3,144
<a href="#">FY 2022 FMR</a>		\$1,538	\$1,854	\$2,274	\$3,578

Alameda County, CA is part of the Oakland-Fremont, CA HUD Metro FMR Area, which consists of the following counties: Alameda County, CA; and Contra Costa County, CA. All information here applies to the entirety of the Oakland-Fremont, CA HUD Metro FMR Area.

*Source: [FY 2023 Oakland-Fremont, CA HUD Metro FMR Area FMRs for All Bedroom Sizes](#)*

**Table 8. Housing and Community Development Department's Homelessness Risk Continuum To Prevent Homelessness**



# Eviction Protection & Homelessness Prevention Programs

Housing & Community Development (HCD) provide these services primarily through Rental Adjustment Program staff:

- Collecting and processing eviction notices
- Housing Counseling
- Education Workshops
- Rent Petition Hearings
- Implementation of the Rental Registry

[www.oaklandca.gov/resources/tenant-property-owner-resources](http://www.oaklandca.gov/resources/tenant-property-owner-resources)

[www.oaklandca.gov/topics/rent-adjustment-program](http://www.oaklandca.gov/topics/rent-adjustment-program)

## Eviction Protection & Homelessness Prevention Programs (cont'd)

- \$58.7 million in Emergency Rental Assistance to date
- \$1 million for eviction protection (Oakland Housing Secure)
  - Other resources are Keep Oakland Housed and Alameda Housing Secure
- \$2.3 million for homelessness prevention pilot programs

HCD's RAP is operating at 25% staff vacancy rate. We request that the Administration prioritize filling budgeted, vacant HCD positions to implement this legislation by:

- Conducting proactive outreach and education via mailings and more;
- Updating tenant/landlord workshop materials; and
- Responding to public inquiries via phone and email;

As well as to manage other activities such as the launch of the Rental Registry.

**Continued advocacy with the County, State, and Feds is necessary too.**

# Discussion

## COVID-19 Eviction Moratorium Phase-Out & Amendments To Just Cause Ordinance