


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL
18499
ORDINANCE NO. _____ C.M.S.

**AN ORDINANCE AMENDING THE UNIFORM RESIDENTIAL
TENANT RELOCATION ORDINANCE TO PROVIDE CITY
ASSISTANCE FOR LOW INCOME AND LOW ASSET
HOMEOWNERS TO PAY RELOCATION PAYMENTS TO TENANTS
DISPLACED BY OWNER AND RELATIVE MOVE IN EVICTIONS**

WHEREAS, the City of Oakland is experiencing an unprecedented housing crisis which requires immediate emergency action by the City government; and

WHEREAS, the City of Oakland passed Ordinance 13468 on January 16, 2018 which required owners to pay relocation assistance to tenants displaced by owner or relative move-in evictions; and

WHEREAS, some housing providers in the City are lower income and may have most, if not all, of their retirement savings held in real estate equity and for these owners the payment of this relocation assistance may be overly burdensome and may incentivize long-time housing owners to sell their properties and leave the City of Oakland; and

WHEREAS, after the passage of the Civil Rights Bill of 1968, commonly known as the "Fair Housing Act," Oakland became one of the areas throughout the country with opportunities for Black Americans to acquire real estate and begin to overturn the centuries-old practice of barring Black Americans from participation in vehicles of community building, family stability and wealth creation through real estate; and,

WHEREAS, discriminatory practices in housing led to the concentration of Black and Brown people living Oakland's flatland communities, subjecting these residents to the detrimental and illegal practices of targeted redlining and subprime lending that defies the intent of the Fair Housing Act and continues to lead to disproportionately low real estate ownership rates for African American, Latinx and other affected communities; and

WHEREAS, the City Council is committed to enacting equitable public policy that will encourage and nurture economic and racial diversity in every community; and

WHEREAS, the City Council is committed to creating a pathway for lower income housing providers who do not own a substantial amount of property the ability to access assistance from the City of Oakland to pay relocation assistance at the time of eviction and to subsequently reimburse the City of Oakland for these costs at a later date; and

WHEREAS, this Ordinance applies an income and asset eligibility test based on the Federal regulations for determining eligibility to receive a federally insured home equity loan to ensure that only owners without substantial assets who would be burdened by the relocation assistance requirements are eligible for City assistance to meet their relocation payment requirements; now, therefore,

THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Modification of Section 8.22.850 of the Oakland Municipal Code. Section 8.22.850 of the Oakland Municipal Code is hereby amended to read as follows (additions are shown as double underline and deletions are shown as strikethrough):

8.22.850 – Relocation Payments for Owner or Relative Move-Ins

- A. **Applicability.** An Owner who evicts a Tenant pursuant to O.M.C. Section 8.22.360(A)(9) or where a Tenant vacates following a notice or other communication stating the Owner's intent to seek recovery of possession of the unit under this O.M.C. Section must provide relocation payment under this Section. Relocation payment procedures pursuant to code compliance or Ellis Act evictions will be governed by the Code Compliance Relocation Ordinance and the Ellis Act Ordinance.
- B. The property Owner shall be responsible for providing relocation payments, in the amounts specified in Section 8.22.820, to an eligible Tenant Household in the form and manner prescribed under this article and any rules and regulations adopted under this article.
- C. **Tenant Eligibility for Payment.** Tenants will be eligible for relocation payments according to the following schedule based on the effective date of ay notice to terminate:
 - 1. Upon taking possession of the Rental Unit, the Tenant will be eligible for one-third (1/3) of the total payment pursuant to subsection B above.
 - 2. After one year of occupancy of the Rental Unit, the Tenant will be eligible for two-thirds (2/3) of the total payment pursuant to subsection B above.
 - 3. After two years of occupancy of the Rental Unit, the Tenant will be eligible for the full amount of the total payment pursuant to subsection B above.
- D. **Time for payment**
 - 1. The Owner must pay the Tenant half of the relocation payment provided for in Section 8.22.820(A) when the termination notice is given to the household and the remaining half when the Tenant vacates the unit provided that the Tenant agrees, in writing, not to contest an unlawful detainer based on the notice to terminate tenancy for the Owner or relative

moving in to the Tenant's Rental Unit. If the Tenant does not so agree, then the entirety of the relocation payment is not due unless the Owner prevails in the unlawful detainer. If the Owner prevails in the unlawful detainer, the relocation payment must be paid to the Tenant prior to the Owner seeking a writ of possession for the Tenant to vacate the unit.

2. The Owner must pay the Tenant the additional payment provided for in Section 8.22.820(B) within fifteen (15) days of the Tenant's notice of eligibility or the Tenant supplying documentation of the Tenant's eligibility.
- E. Failure to make the relocation payments in the manner and within such times as prescribed in this Section is not a defense to an unlawful detainer action. However, if an Owner fails to make the relocation payment as prescribed, the Tenant may file an action against the Owner and, if the Tenant is found eligible for the relocation payments, the Tenant will be entitled to recover the amount of the relocation payments plus an equal amount as damages and the Tenant's attorney's fees. Should the Owner's failure to make the payments as prescribed be found to be in bad faith, the Tenant shall be entitled to the relocation payments plus an additional amount of three times the amount of the relocation payments and the Tenant's attorney's fees.
- F. Owners may apply for a zero-interest loan from the City of Oakland for the purpose of satisfying their relocation payment obligation under this O.M.C Section if they meet the eligibility criteria set forth below. An owner qualifies for a relocation payment assistance loan if they meet the following two conditions:
1. Ownership of fewer than five units in the City of Oakland. In the case of a relative move-in, the relative must also not own any other real estate property and must be of low or moderate income as defined by California Health and Safety Code Section 50093.
 2. The Owner must be ineligible for a cash-out refinance loan based on the underwriting criteria for investment properties set forward by Fannie Mae regulations.

The owner must also meet at least one of the following two conditions to qualify:

1. The Owner must not have more than six months of liquid financial reserves as defined by Fannie Mae regulations.
2. The owner must qualify as low or moderate income as defined by California Health and Safety Code Section 50093.

The City Administrator may issue additional regulations or guidance to implement this subsection.

SECTION 2. Regulations and Guidance for Implementation. The City Administrator is directed to issues any additional regulations or guidance needed to implement this subsection. In creating any regulations regarding loan repayment, the City Council seeks a system that both maximizes the repayment of the zero-interest loans, which may include a lien on the property, and a system that considers the ability of lower income owners to repay the zero-interest loan at a rate that does not incur additional hardship. Additionally, the City Administrator is encouraged to investigate

proposing an amendment to the Master Fee Schedule to pay for the administration of this program.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

SECTION 5. This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to, but not limited to, the following CEQA Guidelines: § 15378 (regulatory actions), § 15061(b)(3) (no significant environmental impact), and § 15183 (consistent with the general plan and zoning).

IN COUNCIL, OAKLAND, CALIFORNIA,
PASSED BY THE FOLLOWING VOTE:

JUL 24 2018

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLÉN, KALB, KAPLAN, MCELHANEY AND
PRESIDENT REID *-8*

NOES - *0*
ABSENT - *0*
ABSTENTION - *0*

Introduction Date

JUL 10 2018

ATTEST: *Latonda Simmons*
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California
Date of Attestation: *July 27, 2018*

NOTICE AND DIGEST

AN ORDINANCE AMENDING THE UNIFORM RESIDENTIAL TENANT RELOCATION ORDINANCE TO PROVIDE CITY ASSISTANCE FOR LOW INCOME AND LOW ASSET HOMEOWNERS TO PAY RELOCATION PAYMENTS TO TENANTS DISPLACED BY OWNER AND RELATIVE MOVE IN EVICTIONS

This Ordinance amends the Uniform Residential Tenant Relocation Ordinance to provide city assistance for low income and low asset homeowners to pay relocation payments to tenants displaced by owner and relative move in evictions.