

Santa Barbara Ordinance – Just Cause Eviction

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FOR COMMENT

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CITY OF SANTA BARBARA ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: April 21, 2020

TO: Ordinance Committee

FROM: City Attorney's Office

SUBJECT: Proposed Ordinance Requiring Just Cause For Residential Evictions And Resolution Establishing Relocation Assistance Payments For No-Fault Just Cause Evictions

RECOMMENDATION: That the Ordinance Committee consider and make recommendations to Council on the following matters:

A. An Ordinance of the Council of the City of Santa Barbara Amending the Santa Barbara Municipal Code by the Addition of Chapter 26.50 Pertaining to Just Cause for Residential Evictions;

B. A Resolution of the Council of the City of Santa Barbara Establishing Relocation Assistance Payment Amounts for No-Fault Just Cause Evictions Pursuant to Santa Barbara Municipal Code Chapter 26.50.

EXECUTIVE SUMMARY:

The proposed Just Cause for Residential Evictions Ordinance tracks AB 1482, but adds "more protective" measures for tenants as directed by Council on February 11, 2020. The Relocation Assistance Nexus Study prepared by Keyser Marston Associates, Inc. determined that relocation assistance payments could range between \$2,328 and \$8,460, depending upon the size of the rental unit, the distance of the move, and whether the tenant has special needs.

DISCUSSION:

Background

Just cause eviction ordinances work in combination with state landlord/tenant laws to limit the reasons a property owner can use to evict a tenant who is otherwise in good standing. Last year, the state enacted the Tenant Protection Act of 2019, which

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(Civ. Code, §1946.2(g)(1)(B)(i)-(iii).)

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- Default in the payment of rent;
- Breach of a material term of a lease;
- Maintaining a nuisance;
- Committing waste (destruction of property);
- Tenant refusal to accept a lease extension on the same terms;
- Criminal activity;
- Unlawful assignment or sublease;
- Refusal to allow the owner to enter lawfully;
- Using the unit for unlawful purposes;
- Failure to vacate employee housing after termination; and,
- Tenant holdover after notice or surrender to owner.

Under both AB 1482 and the proposed ordinance, tenants who are evicted on an at-fault basis are not entitled to a relocation assistance payment.

No-fault evictions entitle the tenant to a relocation assistance payment. Under AB 1482, that payment is limited to one-month's rent. In order to meet the requirement that the City ordinance be "more protective," proposed Section 26.50.020 establishes a minimum relocation assistance payment of one-month's rent plus one dollar or an amount established by Council resolution, whichever is greater. By establishing a "default" base relocation assistance of one dollar more than what AB 1482 requires, the Council can be assured that the ordinance will remain effective even if future Councils do not adopt a relocation assistance resolution or if a future relocation assistance resolution is challenged legally.

Under AB 1482, no-fault just cause evictions are defined to mean:

- Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents;
- Withdrawal of the rental unit from the rental market;
- The owner complying with court or government agency order, or local ordinance, that necessitates vacating the rental unit; and,
- Intent to demolish or to substantially remodel the unit.

If an owner wishes to evict a "qualified tenant" for one or more of the no-fault just cause reasons, the owner must pay relocation assistance. Under AB 1482, only tenants who have continuously and lawfully occupied a rental unit for 12 months would meet the proposed definition of "qualified tenant." The Council may wish to substitute a more protective standard that would reduce the number of months a tenant must reside in a rental unit before relocation assistance protection becomes available. This can be accomplished by changing the definition of "qualified tenant."

Under AB 1482 and the proposed ordinance, relocation assistance payments must be made to the qualified tenant within 15 calendar days after service of a no-fault

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termination notice. While this timing is beneficial to a tenant trying to find alternate housing, it leaves the owner out-of-pocket if the tenant fails to surrender the rental unit on time. AB 1482 and the proposed ordinance address this by enabling owners to recover the relocation assistance payment in litigation if the tenant fails to vacate. Another approach that is more protective of property owners would be to allow the owner to delay the relocation assistance until as late as the date the tenant actually surrenders occupancy of the rental unit. This “cash for keys” approach can be accomplished by modifying Section 26.50.050 A. of the proposed ordinance.

Relocation Assistance Nexus Study

We retained Keyser Marston Associates, Inc. (KMA) to prepare a Relocation Assistance Nexus Study. KMA prepared a conservative analysis of typical relocation expenses incurred by residential tenants of no-fault evictions. These expenses include moving costs, short-term storage costs, increased security deposit costs, apartment application fees and utility initiation fees. Typically, tenants will have to pay a portion of these expenses in advance of their actual move date. The findings of the KMA analysis were intended to be used to establish relocation assistance payment requirements that are proportionate to costs experienced by tenants displaced in a no-fault just cause eviction. As this area of the law is somewhat undeveloped, the factors and costs KMA considered represent our best effort at developing a clearly defensible relocation assistance payment. It is very possible that other factors and costs could also be considered when determining the amount of relocation assistance that would be reasonably related to the impacts otherwise absorbed by the tenant who is forced to move through no fault of their own.

The financial burden associated with relocating from one rental unit to another varies greatly. Factors that may impact the financial cost include:

- The size of the residential unit;
- The distance that the household will move; and,
- The amount of physical assistance required by the tenant to pack and load belongings.

In order to account for a range in unit sizes, KMA estimated the costs of moving for various unit sizes – studios at 500sf, one-bedroom units at 600sf, two-bedroom units at 1,000sf, and three-bedroom units at 1,500sf. KMA relied upon the average unit sizes for each bedroom type within the City as published in the Dyer Sheehan Group, Inc. March 2019 South Coast Apartment Market Survey (DSG Market Survey).

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KMA analyzed relocation costs under three scenarios regarding where displaced tenants relocate:

- To another rental unit within the City;
- Within the “South Coast” region, defined as the area from Goleta to Carpinteria; and,
- Outside of the South Coast region, defined as the area from Santa Maria to Lompoc to Oxnard/Ventura.

In addition to the factors outlined above, there are many expenses that may be incurred by a tenant as a result of an involuntary relocation. The following is a list of the relocation expenses included in this analysis:

- Moving expenses, including:
 - Packing; and
 - Loading / unloading;
- Payment of new security deposits;
- Apartment application fees; and
- Utility fees for initiation of service.

Some households will experience greater relocation costs due to age, disabilities, or presence of young children. Accordingly, KMA provided separate estimates of moving costs for the general population and households with special needs that require additional assistance with the packing and moving process.

Special needs tenants including disabled, elderly, and families with children often face an increased burden when facing eviction. While an unexpected eviction presents financial challenges for any tenant, it is especially burdensome for tenants with reduced mobility due to age or disability. This increased burden is due to a greater need for moving assistance, particularly among elderly and disabled tenants, and a greater likelihood of household disruption and increased financial pressure that these households will experience because of forced relocation. Additionally, these households do not always have adequate savings or financial capacity to absorb the costs of an unplanned move. Families with children may face added challenges, including securing affordable two or three-bedroom housing units, as well as changing schools and/or school districts.

The increased impacts of displacement experienced by these tenant populations can justify higher relocation assistance payments. KMA used the average of the high end of each moving company’s hourly range to ensure sufficient relocation assistance to provide the higher service levels required by special needs households. That is, the moving companies provided ranges for the length of time it typically takes to move the unit sizes provided by KMA. If a moving company provided KMA a range of four to eight hours to move a studio apartment. KMA utilized the 8-hour estimate to arrive at the average moving time necessary for special needs households.

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KMA's overall relocation expense conclusions are as follows:

Estimated Relocation Expenses					
		Studio	1-Bedroom	2-Bedroom	3-Bedroom
Within the City					
	General Population	\$2,365	\$2,700	\$4,583	\$7,125
	Special Needs	\$2,571	\$2,921	\$5,468	\$8,460
Within the South Coast					
	General Population	\$2,328	\$2,866	\$4,564	\$6,430
	Special Needs	\$2,534	\$3,087	\$5,449	\$7,765
Outside the South Coast					
	General Population	\$2,698	\$3,236	\$5,007	\$7,023
	Special Needs	\$2,904	\$3,457	\$5,892	\$8,358

We believe any of the relocation expense estimates to be justifiable, but focusing upon moves within the City seems most consistent with the City's Housing Element and the desires of local rental residents. Accordingly, the accompanying resolution proposes relocation assistance, with automatic Consumer Price Index adjustments, as follows:

Proposed Relocation Assistance Amounts					
		Studio	1-Bedroom	2-Bedroom	3-Bedroom or larger
Within the City					
	General Population	\$2,365	\$2,700	\$4,583	\$7,125
	Special Needs	\$2,571	\$2,921	\$5,468	\$8,460

Santa Barbara Median Rents July 2019					
		Studio	1-Bedroom	2-Bedroom	3-Bedroom or larger
		\$1,540	\$1,875	\$2,685	\$3,925

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The table below expresses KMA's findings as the number of months' rent the assistance represents, using the City's July 2019 median rent survey:

KMA Findings				
KMA General Population Findings	\$2,365	\$2,700	\$4,583	\$7,125
General Population in Months' Rent	1.54	1.44	1.70	1.82
KMA Special Needs Findings	\$2,571	\$2,921	\$5,468	\$8,460
Special Needs in Months' Rent	1.67	1.56	2.03	2.16

This means that KMA's approach found a range of relocation assistance for general population tenants of between 1.54 months' rent for a studio and 1.82 months' rent for a 3-bedroom. For special needs tenants, KMA found the range to be between 1.67 months' rent for a studio and 2.16 months' rent for a 3-bedroom.

KMA notes that these relocation assistance costs are lower than in rent-controlled jurisdictions because there is no rent differential between the rents paid by a tenant in their original rental unit and market rents. KMA recognizes, as did the City Council in its deliberations, that the effects of statewide rent control established by AB 1482 should be monitored for impacts to the Santa Barbara rental market. The results of ongoing monitoring can be presented to the Council annually with presentation of the budget fee resolution.

BUDGET/FINANCIAL INFORMATION:

The Keyser Marston Associates contract cost is \$12,500.

ATTACHMENT(S): 1. City of Santa Barbara Relocation Assistance Study, Keyser Marston Associates, Inc., April 8, 2020.

PREPARED BY: Ariel Calonne, City Attorney

SUBMITTED BY: Ariel Calonne, City Attorney

APPROVED BY: