



CITY OF COSTA MESA

77 Fair Drive
Costa Mesa, CA 92626

Agenda Report

File #: 23-1412

Meeting Date: 10/17/2023

TITLE:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 9 (LICENSES AND BUSINESS REGULATIONS) OF THE COSTA MESA MUNICIPAL CODE BY ADDING CHAPTER II (REGULATION OF CERTAIN BUSINESSES, ARTICLE 24 (JUST CAUSE RESIDENTIAL TENANT PROTECTIONS)

DEPARTMENT: CITY MANAGER'S OFFICE

PRESENTED BY: NATE ROBBINS, NEIGHBORHOOD IMPROVEMENT MANAGER

CONTACT INFORMATION: NATE ROBBINS, NEIGHBORHOOD IMPROVEMENT MANAGER, (714) 754-5274

RECOMMENDATION:

Staff recommends the City Council introduce and give first reading, waiving further reading, to Ordinance No. 23-XX Amending Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code by Adding Chapter II (Regulation of Certain Businesses, Article 24 (Just Cause Residential Tenant Protections) to support Costa Mesa renters facing no-fault just cause eviction.

BACKGROUND:

Assembly Bill 1482

On October 8, 2019, the Governor of California signed into law Assembly Bill 1482 (AB1482), otherwise known as the Tenant Protection Act of 2019. In summary, AB1482 prohibits owners of residential real property from evicting a tenant without just cause when said tenant has occupied a residential unit for a minimum of 12 consecutive months. AB 1482 further delineates just cause evictions into two separate categories: At-Fault and No-Fault. As their names imply, just cause at-fault evictions are triggered when a tenant performs or fails to perform specific actions that cause an owner to terminate a lease, whereas no-fault just cause evictions are actions taken by the owner to terminate a lease absent any wrongdoing by the tenant.

AB1482 allows owners to issue an at-fault just cause eviction for any of the following:

- A. Failure to pay rent
- B. Breach of a material term of the lease
- C. Allowing or causing a nuisance

- D. Committing waste
- E. Failure to execute an extension upon expiration of the lease
- F. Criminal activity
- G. Subletting in violation of the lease
- H. Failure to allow the owner to enter the real property
- I. Using the property for an unlawful purpose
- J. An employee or agent of the owner fails to vacate upon being terminated
- K. Failure of tenant to surrender the property after providing written notice of their intent to surrender

Further, AB1482 allows owners to issue a no-fault just cause eviction for any of the following:

- A. Intent to occupy the property by the owner or an immediate family member
- B. Withdrawal of the property from the rental market
- C. Complying with an order from a government agency, court, or ordinance
- D. Intent to demolish or substantially rehabilitate the property
 - i. "Substantially rehabilitate" is defined as the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency - or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws - that cannot be reasonably accomplished in a safe manner while allowing the tenant to remain living in the unit and that requires the tenant to vacate the property for at least 30 consecutive days.

Senate Bill 567

On September 30, 2023, the Governor of California signed into law Senate Bill 567 (SB567), which amends AB1482 to place additional requirements on owners of residential property when issuing no-fault just cause evictions, as well as to prescribe new enforcement mechanisms with respect to the provisions of AB1482 and SB567. Many of the new provisions take effect on April 1, 2024.

Specifically, SB567 will require owners, when issuing a no-fault just cause eviction based on an intent to occupy the property, to move into the property, or have the designated family member do so, within 90 days of the tenant vacating the unit and to maintain occupancy for a minimum period of 12 consecutive months.

Further, SB567 requires owners, when issuing a no-fault just cause eviction for intent to demolish or substantially rehabilitate the property, to provide written notice to tenants informing them of the intent to demolish or substantially rehabilitate the property, a description of the substantial rehabilitation to be completed, an approximate estimated duration of the substantial rehabilitation or expected date the property is to be demolished, and a copy of the permit or permits required to undertake the substantial remodel or demolition.

Lastly, SB567 prescribes new enforcement mechanisms by making an owner who issues a notice of eviction in violation of AB1482 and/or SB567 liable to the tenant in a civil action for damages of up to 3 times the actual damages, in addition to punitive damages.

Both AB1482 and SB567 require owners, when issuing a no-fault just cause eviction for any of the authorized provisions, to notify the tenant in writing of their right to relocation assistance or rent waiver equal to one month of the tenant's current rent. Relocation assistance must be paid directly to the tenant within 15 days of receiving the notice to vacate. An owner's failure to comply with the requirements of either Bill renders a notice of tenancy termination void.

ANALYSIS:

According to the American Community Survey (ACS) of 2018, the City of Costa Mesa has approximately 41,019 total households with roughly 60% (24,611 households) of those as renters. The 2020 Comprehensive Housing Affordability Strategy (CHAS), which derives its data from the ACS, found that 55% (13,536 households) of Costa Mesa renters face at least one of the four "housing problems" identified, which include units with physical defects (i.e., lacking a complete kitchen or bathroom), overcrowded conditions, housing cost burdened (i.e., housing costs exceed 30% of gross income), and severe housing cost burdened (i.e., housing costs exceed 50% of gross income).

Data from the Superior Court of California, County of Orange, lists Costa Mesa as having the fourth highest eviction rate among the 34 incorporated Orange County cities. Per the data, between 2020 and 2022, a total of 258 households had their tenancy terminated.

Current System of Care for Renters

Since 2020, the Costa Mesa City Council has allocated approximately \$2 million for rental assistance to keep households at-risk of eviction in their homes. The City currently funds a short-term rental assistance program providing up to 6 months of financial assistance, as well as a long-term program providing up to 24 months of financial assistance coupled with intensive case management.

The City partners with the Fair Housing Foundation (FHF) and allocates \$30,000 annually in CDBG funds to provide outreach and education regarding landlord/tenant's rights and responsibilities, housing discrimination complaint intake and investigation, landlord/tenant counseling and mediation, and enforcement and "impact litigation" via the filing of lawsuits against landlords, property managers, and other housing providers who have violated fair housing laws. FHF does not provide legal representation to individual tenants in eviction cases. FHF refers those cases to organizations that provide legal services for tenants, such as Legal Aid or the Public Law Center.

The City recently awarded \$250,000 in HOME-ARP funds to Community Legal Aid So Cal (CLA) to provide counseling and in-court representation for Costa Mesa residents facing housing-related challenges, including wrongful evictions. Between July 1 and September 30, CLA closed 92 cases involving Costa Mesa residents; 30 were related to housing issues and 22 of the 30 were related to evictions.

Over the past two years, the Costa Mesa City Council has awarded nearly \$11 million in Federal, State and County funds to produce affordable rental housing for very low and extremely low-income individuals and families through Project Homekey Motel conversions (Motel 6 and Travelodge for a combined total of \$10 million for 164 new affordable housing units to serve veterans, seniors, and other unhoused individuals; and almost \$1 million for the development of another 8 affordable housing units serving 36 families).

Costa Mesa Tenant Protection Ordinance

Despite the efforts of both the State via the Tenant Protection Act and the City with its current system of care, Costa Mesa renters continue to face eviction-related challenges. Many renters that experience evictions are lower income individuals and families who already have a high housing cost burden and limited “extra” funds to pay for moving costs. Renters are also typically given short notice to vacate the residence and limited relocation assistance, which is typically not sufficient to pay first and last month’s rent or the security deposit necessary to secure another place to live. These circumstances when taken together cause housing instability for Costa Mesa families and can lead to homelessness and an overtaxing of local services and safety net programs.

In an effort to further enhance the provisions outlined in AB1482 and SB567, as well as augment our own system of care, and pursuant to City Council direction, City staff have prepared a Tenant Protection Ordinance (Ordinance) that would increase protections for, and provide additional support to, renters facing no-fault just cause eviction. The proposed Ordinance is identical to the provisions outlined in AB1482 and SB567 with a few noteworthy enhancements:

1. In addition to the provision requiring owners to notify tenants of their intent to issue a no-fault just cause eviction, the Ordinance would require owners to notify the City within 72 hours after giving notice to their tenant. Failure to properly notify would render a notice to vacate void.
 - Justification- The key to preventing homelessness as a result of eviction is early detection. While existing law provides protection for tenants facing eviction, City involvement will increase owner accountability, ensure tenants are fully aware of their rights, and allow the City to provide additional support to improve outcomes for all.

2. The Ordinance would require owners to pay tenants being issued a no-fault just cause eviction relocation benefits equal to two (2) months of Fair Market Rent (FMR) as determined annually by the U.S. Department of Housing and Urban Development (HUD).
 - Justification- Households occupying a unit for more than 12 months are likely paying substantially less rent than they would for a similar unit on the market at present day. Therefore, upon eviction, housing cost burdened families struggle to find a rental unit of

an equivalent cost and struggle to pay first and last month's rent and a security deposit when relocation assistance under State law consists only of the current rent for one month. To ensure evicted households have the financial means to secure an alternative housing option, staff recommends that relocation assistance be based on FMR.

The following table represents the relocation assistance rates proposed in the draft Ordinance (i.e., two-times HUD Fair Market Rent):

ZIP Code	Studio	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
92626	\$4,540	\$4,940	\$5,940	\$8,060	\$9,440
92627	\$3,840	\$4,200	\$5,040	\$6,840	\$8,000

ALTERNATIVES:

The City Council can elect to forgo adopting a Tenant Protection Ordinance, which would cause evictions in Costa Mesa to only follow provisions outlined in AB1482 and SB567.

FISCAL REVIEW:

While no additional funding is needed to adopt a Tenant Protection Ordinance, monitoring and enforcement of said ordinance would require staff time and may result in the need for additional staff, contract services and legal services.

If the City Council decides to approve the draft Ordinance, staff will return to the Council concurrently with the second reading of the Ordinance with specific recommendations and cost estimates for augmenting staff and/or contract services necessary to implement and enforce the ordinance.

LEGAL REVIEW:

The City Attorney's office has reviewed this report and the draft ordinance and approved them as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports the following City Council Goal:

- Diversify, Stabilize and Increase Housing to Reflect Community Needs

CONCLUSION:

Staff recommends the City Council introduce and give first reading, waiving further reading, to Ordinance No. 23-XX Amending Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code by Adding Chapter II (Regulation of Certain Businesses, Article 24 (Just Cause Residential Tenant Protections) to support Costa Mesa renters facing no-fault just cause eviction.