

Agenda Report

April 3, 2017

TO: Honorable Mayor and City Council

THROUGH: Economic Development and Technology Committee (March 21, 2017)

FROM: Housing and Career Services Department

SUBJECT: PROPOSED AMENDMENTS TO THE TENANT PROTECTION ORDINANCE, CHAPTER 9.75, PASADENA MUNICIPAL CODE

RECOMMENDATION:

It is recommended that the City Council take the following actions:

- 1) Find that the recommended action is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines per Section 15061 (b) (3), the General Rule that CEQA only applies to projects that may have an effect on the environment; and
- 2) Direct the City Attorney to prepare an amendment to the Tenant Protection Ordinance (Chapter 9.75, Pasadena Municipal Code) in accordance with the proposed modifications contained in this agenda report, and return within 60 days.

BACKGROUND:

This item was presented to the Economic Development and Technology Committee on March 21, 2017. The Committee approved the staff recommendation and requested that staff reach out to local educational institutions to obtain their input on the proposed modifications to the Tenant Protection Ordinance (TPO). Accordingly, On March 22, 2017, staff contacted representatives of Fuller Theological Seminary, California Institute of Technology, and William Carey International University. Fuller Theological Seminary provided comments which staff considered in developing the proposed modifications to TPO items #4 and #8 as outlined below. Additionally, as requested by the Committee, a diagram is provided in Attachment A which describes the key steps in the processing of TPO cases. Furthermore, to ensure wider distribution of information on TPO, information sheets will be distributed to the Pasadena-Foothills Association of Realtors and the Foothill Apartment Association. The information sheet will also be mailed to property owners of apartment buildings in the city with three or more units. During the Committee meeting, questions were also raised regarding applicability of TPO to

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Residential Care Facilities for the Elderly similar to Pasadena Manor. The state has enacted a comprehensive scheme for regulating Residential Care Facilities for the Elderly (Health and Safety Code Section 1569 *et seq.*) and the courts have found this regulatory scheme preempts local agencies from imposing local laws regarding rent, relocation, and termination of tenancies on these facilities. Therefore, the proposed modifications to TPO will clarify this exemption from the ordinance.

The Pasadena Municipal Code, pursuant to Chapter 9.75 Tenant Protection Ordinance (“TPO”) (see Attachment “B”) adopted in 2004, requires landlords to pay tenants in good standing, whose household income does not exceed 140% of the median income for Los Angeles County, a Relocation Allowance and a Moving Expense Allowance if the tenant is required to vacate due to: 1) demolition of the unit, 2) government order, or 3) permanent removal of the unit from the rental market.

The amount of Relocation Allowance is equivalent to two (2) times the amount of the current Fair Market Rent (“FMR”) for the Los Angeles – Long Beach metropolitan area, for a rental unit of similar size to the unit being vacated. FMR schedules are published annually by the U. S. Department of Housing and Urban Development. The current Relocation Allowance ranges from \$1,894 (studio unit) to \$4,454 (four-bedroom unit). The Moving Expense Allowance is currently \$3,611 for households with members who are seniors, disabled, or minor dependents, and \$1,200 for all other households. The baseline Moving Expense Allowance amounts were established with the adoption of TPO in 2004 and are adjusted annually in accordance with changes in the Consumer Price Index for the Los Angeles – Long Beach area.

At the September 28, 2015, regular meeting of the City Council, staff was directed to review the TPO, focusing specifically on concerns regarding the Relocation Allowance provided to tenants who are displaced due to demolition, government order to vacate, or permanent removal of a unit from the rental market, and to report to the Economic Development and Technology Committee with recommendation(s) on how best to eliminate the identified exemption at sub-section A of Section 9.75.040 (“Inapplicability of Chapter to Certain Evictions”). Sub-section A provides that *“The requirements set forth in this chapter shall not apply to any tenant whose tenancy is terminated pursuant to a lawful notice to terminate tenancy pursuant to state law.”* Pursuant to this clause, a landlord that intends to demolish a unit or permanently remove a unit from the rental market would be exempt from having to pay relocation and moving expense allowances to a tenant in good standing as long as the tenancy were terminated in accordance with state law.

At the Committee meeting of April 4, 2016, staff presented proposed modifications to the TPO to eliminate this exemption. Moreover, the proposed modifications explicitly provide that termination of tenancy for the purpose of demolishing a unit or permanently removing the unit from the rental market does not exempt a landlord from having to provide relocation and moving expense allowances to tenants in good standing. The Committee directed staff to return with the proposed modifications and directed staff to return with proposed modifications to several other areas of the TPO including:

- Clarify the property owner’s obligation under TPO when a unit is vacated for the purpose of moving in a family member of the landlord.

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- Clarify the property owner's obligation under TPO in the case of rental housing that is provided by educational institutions.
- Clarify the property owner's obligation under TPO in the case of Residential Care Facilities for the Elderly (aka "board and care facilities") and other state licensed care facilities.
- Clarify the tenant's responsibility to cooperate and provide documentation to the property owner, City staff, or City consultant Housing Rights Center for the purpose of determining the eligibility of the tenant to receive assistance under TPO.
- Define the term "tenant in good-standing".
- Define the term "family member".

PROPOSED MODIFICATIONS TO TENANT PROTECTION ORDINANCE:

The following modifying provisions are proposed to be included in the amended TPO:

- 1) Remove in its entirety the provision in sub-section A of Section 9.75.040 which states: *"The requirements set forth in this chapter shall not apply to any tenant whose tenancy is terminated pursuant to a lawful notice to terminate tenancy pursuant to state law."*
- 2) Lawful termination of tenancy does not exempt a landlord from providing relocation and moving expense allowances to tenants in good standing. If a landlord intends to demolish a unit or permanently remove the unit from the rental housing market, and the landlord vacates the unit by not renewing the lease agreement with a tenant in good standing, the landlord shall be obligated to provide relocation and moving expense allowances to the displaced tenant in good standing.
- 3) If a tenant eviction occurs for the sole purpose of making a unit available for occupancy by the owner or an owner's family member, the owner shall be obligated to pay to the displaced tenant(s) an amount of relocation and moving expense allowances that is equal to one-half of the applicable allowances set forth in this chapter.
- 4) In the case of rental housing owned and provided by educational institutions for students, faculty or staff, owner shall pay relocation and moving expense allowances if tenancy is terminated by the owner after 365 days of the date on which: a) the student's enrollment in the institution is discontinued; b) the faculty member's tenure at the institution is discontinued; or c) the staff person's employment at the institution is discontinued. In other words, a tenant, faculty member, or staff that loses their status will only be eligible for relocation benefits if they are evicted after 365 days from the date of discontinued student, faculty member or staff status. The relocation and moving expense allowance amounts applicable to this paragraph shall be as set forth at section 9.75.060 of the TPO. However, for cases in which the institution enters into separate leases with individuals that share a rental unit as roommates, the following allowance amount

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shall apply per person: a) Relocation – twice the HUD FMR for a studio unit; b) Moving expense - \$1,200.

- 5) Consistent with state law, Residential Care Facilities for the Elderly and other state licensed care facilities are exempt from the provisions of this chapter.
- 6) Upon the request of the landlord, City, or City consultant (e.g., the Housing Rights Center), tenant shall provide the following documentation to determine eligibility for relocation and moving expense allowances: i) a signed certification of household members and household income on a form acceptable to the City; ii) documentation of income (e.g., paystubs, public benefits statements, employer verification); and iii) any other documentation as may be reasonably requested by the landlord, City, or City consultant.
- 7) "Family member" shall be defined as the owner's spouse, grandparents, grandchildren, brother, sister, father-in-law, mother-in-law, daughter-in-law, son-in-law, children, or parents.
- 8) The term "tenant in good standing" shall mean a tenant that, on the date of eviction, is in compliance with all the terms and conditions of the lease, including: i) no outstanding financial obligations under the lease; ii) use of the unit is in accordance with the terms of the lease without unauthorized sublet or transfer; iii) the unit is in good condition (except for normal wear and tear); iv) all other covenants and obligations; and v) for rental units at educational institutions, in addition to i, ii, and iii, above, compliance with standards, codes of conduct, community rules, and other policies as may be set forth in leases with students, faculty and staff.

COUNCIL POLICY CONSIDERATION:

This proposed action supports the City Council Strategic Planning Three-Year Goals in the areas of promoting the quality of life and the local economy.

ENVIRONMENTAL ANALYSIS:

The action proposed herein is exempt from the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15061 (b)(3), the "General Rule" provision of CEQA which applies to projects which may have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The approval of the proposed modifications to the Tenant Protection Ordinance will not have a significant effect on the environment and, hence, is not subject to CEQA.

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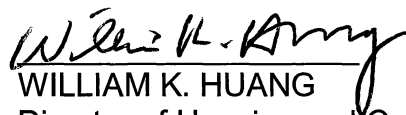
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FISCAL IMPACT:

Approval of the staff recommendations will have no direct fiscal impact on the City's General Fund.

Respectfully submitted,



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Prepared by:



JAMES WONG

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Approved by:



STEVE MERMELL

City Manager

ATTACHMENTS

Attachment "A": TPO Case Processing diagram

Attachment "B": Tenant Protection Ordinance