



STAFF REPORT

AGENDA NO:

MEETING DATE: November 12, 2019

To: Honorable Mayor and City Council

Date: November 12, 2019

From: Lisa K. Goldman, City Manager – (650) 558-7243
Kathleen Kane, City Attorney – (650) 558-7204
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Subject: Discussion of AB 1482, the Tenant Protection Act of 2019

RECOMMENDATION

Staff recommends the City Council discuss the implications of AB 1482, the Tenant Protection Act of 2019.

BACKGROUND

On October 8, Governor Newsom signed AB 1482, which goes into effect on January 1, 2020. The legislation, which is attached, contains two main elements: a prohibition on evictions without just cause and imposition of a rent cap.

Recently, some members of the Burlingame community approached the Council to ask that the City adopt an urgency ordinance to prohibit evictions without “just cause” as some Burlingame renters have recently received eviction notices effective prior to January 1, 2020, and they are concerned that others may receive eviction notices prior to AB 1482 becoming effective on January 1, 2020. (Community members have not focused on the rent cap provisions in the legislation, likely because Measure T prohibits the City from imposing local rent control.) In addition, the City received a letter from Shirley Gibson, an attorney with Legal Aid of San Mateo County, regarding AB 1482 and evictions in Burlingame. That letter is attached.

The Cities of Daly City, San Mateo, and Redwood City have recently adopted urgency ordinances that impose just cause eviction requirements to protect those tenants whose landlords have issued eviction notices that are effective on or before December 31, 2019. The City of Pacifica discussed the matter but opted not to adopt an urgency ordinance.

DISCUSSION

Under existing law, rental property owners are required to give notice at least 60 days prior to the proposed date of termination, or at least 30 days prior to the proposed date of termination in cases in which the tenant has resided in the dwelling for less than one year. AB 1482 prohibits a rental property owner from terminating a tenancy without just cause when the tenant has continuously and lawfully occupied the rental property for 12 months or more. However, evictions are permitted

if there is just cause; non-payment of rent, violation of a lease term, and nuisance are all examples of just cause. AB 1482 does not apply to tenants who have been residing in a unit for fewer than 12 months.

Some members of the community are concerned that some landlords are issuing 60 day no-cause eviction notices so that they can re-rent their properties on or after January 1, 2020, at a higher rent than they had been receiving. Under such a scenario, the new rent caps imposed by AB 1482 would be imposed on a higher starting rent, thereby affording landlords more rental income than they would have received from their prior tenants.

As described above, current law requires landlords who wish to evict tenants who have lived in their units for at least a year to issue 60-day notices to vacate. Therefore, landlords who are trying to circumvent the rent caps in AB 1482 would have had to issue their notice to vacate on or before October 31, 2019. Any notices to vacate given after October 31 will place the eviction on or after January 1, 2020. At that point, the tenants are protected by AB 1482 and cannot be evicted without just cause or have their rents raised by more than the permitted amount.

Statewide Emergency Declaration

On October 27, Governor Newsom issued a statewide emergency declaration due to the wildfires burning throughout the state. That declaration had the effect of immediately implementing a 10% rent cap statewide for a period of 30 days. State Penal Code Section 396(b) says, in part:

(b) Upon the proclamation of a state of emergency declared by the President of the United States or the Governor, or upon the declaration of a local emergency by an official, board, or other governing body vested with authority to make that declaration in any county, city, or city and county, and **it is unlawful for a person, contractor, business, or other entity for a period of 30 days following that proclamation or declaration, to sell or offer to sell any** consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, **housing**, transportation, freight, and storage services, or gasoline or other motor fuels **for a price of more than 10 percent greater than the price charged by that person for those goods or services immediately prior to the proclamation or declaration of emergency.**

According to the State Attorney General's fact sheet on Penal Code Section 396, "finally, the statute also makes it a separate misdemeanor for a landlord to evict a tenant and then re-rent the property at a rate that the landlord would have been prohibited from charging the evicted tenant under the price gouging statute." Therefore, at least during the 30-day period covered by Governor Newsom's emergency declaration, such evictions followed by large increases in rent are prohibited.

Measure R

In 2016, Burlingame voters placed an initiative on the ballot regarding imposing rent control and just cause eviction provisions in Burlingame. The ballot measure, which was defeated by a vote of 66.7% to 33.3%, asked voters the following question:

Shall the ordinance (a) enacting rent stabilization with an annual maximum increase of 4% for most multi-family rental residences with certificates of occupancy before February 1, 1995; (b) establishing just cause for eviction restrictions on most rental residential units, including single family homes and multi-family residences built after 1995; (c) creating a Commission authorized to enact regulations and set fees to implement the ordinance; and (d) superseding prior restrictions on the passage of rent control be adopted?

The full text of the initiative is attached to this report.

FISCAL IMPACT

There is no fiscal impact associated with this discussion

Exhibits:

- Text of AB 1482
- Letter from Shirley Gibson, Legal Aid Society of San Mateo County
- Text of Measure R