


Date: July 14, 2020

To: Thomas B. Modica, City Manager 

From: Oscar W. Orci, Director of Development Services 

For: Mayor and Members of the City Council

Subject: **Report on Anti-Tenant Harassment Policies in Other California Jurisdictions**

As requested by the City Council at its May 19, 2020 meeting, this memorandum provides information on anti-tenant harassment policies adopted by California Jurisdictions. Of the 482 cities in California, it appears that five have adopted an anti-tenant harassment policy (Policy). In addition, one city (Los Angeles) has proposed, but not adopted a Policy.

Existing State law prohibits many types of harassment actions intended to force tenants to “voluntarily” move out, presumably for the purpose of giving the landlord an opportunity to increase the rent charged to new tenants. California Civil Code §1940.2 prohibits the following landlord actions:

- Interruptions of utilities
- Failure to perform necessary repairs
- Abuse of landlord’s right to enter rental units
- Removal of a tenant’s property
- Interference with the quiet use and enjoyment of the tenant’s unit
- Retaliation for lawful exercise of tenant rights
- Discrimination based on race, religion, sex, disability, and sexual orientation
- Threats based on immigration status (AB 291 amendment)

State law provides for the award of punitive damages to the tenant of up to \$2,000 per violation under certain circumstances. Some California cities have adopted additional regulations, and, in some cases, additional fines for violations of their anti-tenant harassment ordinances to provide additional defenses to tenants in civil court.

The cities of Oakland, San Francisco, West Hollywood, Santa Monica, and Berkeley have adopted such Policies. Attached is a chart summarizing the provisions of those policies. All of the policies include the following prohibitions:

- Reducing or eliminating housing services required by a rental agreement
- Failing to repair or maintain the units following appropriate industry standards
- Abusing the landlord’s right of access into the rental unit
- Using intimidation or coercion to influence a tenant to vacate
- Violating federal, state, or local laws which prohibit discrimination
- Refusing to acknowledge or accept lawful rent payments

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Unique prohibitions implemented by individual cities include the removal of a tenant's personal property without written consent (Oakland) and engaging the tenant in human trafficking as a condition of their tenancy (Berkeley).

Enforcement of anti-tenant harassment provisions is done by means of a civil action and/or an action for injunctive relief. In San Francisco, Santa Monica, and West Hollywood, landlords violating these provisions may be guilty of a misdemeanor, while in Oakland the City Attorney may request an administrative citation be issued.

Monetary fines are imposed in each of these cities. In San Francisco, West Hollywood, and Santa Monica, landlords can be fined up to \$1,000 or serve six months in jail (or both). In Oakland, the fine is three times the actual damages suffered by the tenant, or \$1,000, whichever is greater. The fine in Berkeley is between \$1,000 and \$10,000. In addition, Santa Monica and Berkeley impose an additional \$5,000 fine if the tenant is disabled or over the age of 65. Punitive damages are allowed in San Francisco, Santa Monica, Oakland, and West Hollywood. All of these cities have provisions allowing for the award of attorney's fees to the prevailing party.

If you have any questions, please contact Patrick Ure, Housing and Neighborhood Services Bureau Manager at (562) 570-6026.

ATTACHMENT CHART OF ANTI-TENANT HARASSMENT POLICIES IN CALIFORNIA

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DEPARTMENT HEADS**

Anti—Tenant Harassment Regulations in California

	Reduce housing services (utilities, parking, etc.)	Failure to repair or maintain appropriate industry standards	Abuse right of access to Unit	Removal of tenant’s personal property without written consent	Influence to vacate through intimidation or coercion in bad faith*	Threaten to terminate tenancy based upon facts unknown to be true**	Coercion to vacate with offer of payment	Threaten with verbal abuse or physical harm	Violation of laws which prohibit discrimination	Interfere with right to quiet use and enjoyment of unit	Refusal to accept rent payment***	Interfere with right to privacy	Request residence or citizenship status or threaten to disclose or report status	Repeated acts or omissions to disturb the peace or quiet of any lawfully entitled occupant.	Engage tenant in human trafficking as a condition to tenancy
Oakland	X	X	X	X	X		X	X	X	X	X	X	X	X	
San Francisco	X	X	X		X		X	X	X	X	X	X	X	X	
Los Angeles (Proposed)	X	X	X		X	X	X	X	X	X	X	X	X		
West Hollywood	X	X	X		X	X		X	X	X	X			X	
Santa Monica	X	X	X		X	X		X	X	X	X	X			
Berkeley	X	X	X		X		X		X		X	X	X		X
Regulations found in all the above cities	X	X	X		X				X		X				

Highlighted columns indicate regulations in existing state law

* In Los Angeles this includes interfering with tenant organizing activities

** In Los Angeles and West Hollywood this includes *intentional* misrepresentation or concealment of a material fact

*** In Oakland and San Francisco this includes refusing to cash the rent check for over 30 days