

Communication from Public

Name: Danielle Leidner-Peretz
Date Submitted: 03/16/2020 10:06 AM
Council File No: 20-0203
Comments for Public Posting: Public comment for Council File 20-0203.



“Great Apartments Start Here!”

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March 16, 2020

Via Electronic Mail

Members of the Los Angeles City Council
City Hall
200 North Spring Street
Los Angeles, California 90012

**Re: 20-0203: Requiring Owners to Include Permits and Describe Work to be Done
When Issuing Notice to Vacate for a Substantial Remodel (Agenda Item 59)**

Dear Members of the Los Angeles City Council:

The City Council has been advancing an ordinance requiring rental housing providers to first obtain permits and provide descriptions of work to be completed before issuing a notice to vacate for “Substantial Remodel” (per Assembly Bill 1482) of a rental unit that is exempt under the City’s Rent Stabilization Ordinance (RSO). The proposed ordinance is applicable to renters who have received notices of eviction for substantial remodel and remain in possession of their unit. Because the City’s Housing Committee waived consideration of the original motion directing the City Attorney’s office to draft the ordinance, the matter has been advanced and is to be voted on by the full City Council without any opportunity for much needed deliberation and stakeholder input.

The Apartment Association of Greater Los Angeles (AAGLA) strongly urged the City Council to postpone deliberation on this matter so that stakeholder input could be solicited. We also raised important issues for the City Council’s consideration. The motion was advanced with limited floor discussion and without any data to support the need or urgency to move forward with the ordinance. The proposed ordinance has been drafted and is now scheduled for the City Council’s consideration at the March 17th Council meeting. The Housing Committee has again waived consideration of the ordinance, and it is being advanced without essential stakeholder engagement.

The proposed ordinance would impose burdensome requirements on rental housing providers with properties subject to Assembly Bill 1482 – the statewide rent control and renter protection law, when seeking to terminate a tenancy to substantially remodel a rental property in accordance with the new State law. The proposed City ordinance would, prior to issuance of an eviction notice due to substantial remodel, require owners to first obtain necessary permits and provide copies of the permits to renters along with the eviction notice, and within the eviction notice describe “the reason for the termination, the type and scope of the work to be performed, why the



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work cannot be reasonably accomplished in a safe manner with the tenant in place, and why the work requires the tenant to vacate the residential real property for at least 30 days.”

While the City Attorney asserts that municipalities are permitted to adopt local ordinances to include additional renter protections, it provides no legal basis for that assertion. We do not believe that the City has the authority to modify the specific provisions of the State law and that the City is preempted from adopting the proposed ordinance.

Putting aside whether the City has authority to regulate this matter by modifying State law, the proposed ordinance fails to account for the administrative issues associated with requiring procurement of permits prior to the issuance of the tenancy termination notice. Requiring issuance of permits before moving forward with a tenancy termination can result in significant delays in what may be much needed or required unit rehabilitation. Extended delays can also lead to permit expiration and the need for the owner to obtain an extension on a costly permit or permits in order to initiate the planned renovation.

Permits are costly and are provided for a limited time period only, typically for an initial 6-month period. An owner, who is also required to provide the renter with 60 days’ notice of lease termination, would only be left with a valid permit period of 4 months. If any issues arise and the renter refuses to vacate the unit, it may take the remainder of the permit period to resolve the matter. The owner would then be required to seek an extension of the permits in order to proceed with the planned renovations. At minimum, we urge the Council to limit the scope of the requirement to “material permits” and with a clear definition of the permits that would need to be included with the tenancy termination notice, and to require that copies of such permits be provided on or before expiration of a 60-day notice period rather than at the time of providing the notice of termination to the renters.

It is also important to emphasize that under the current State law, if an owner fails to comply with State law’s provisions, the no-fault termination is rendered void and the owner may also be subject to punitive damages. In addition, the owner may be subject to litigation initiated by his or her renters. These existing renter protections serve to discourage the likelihood that an owner would issue a baseless notice with no intention to renovate the property. Further, as previously stated, no data has been provided by the City that reflects the existence of a widespread issue warranting placement of additional obligations on rental property owners.

State law has effectively balanced the objectives of providing renter protections while recognizing the vital importance of upgrading the State’s rapidly aging housing stock. We ask that the City Council consider the existing renter protections under Assembly Bill 1482, and the likelihood of unintended consequences that will result should this proposed ordinance be advanced, including potentially hindering essential rehabilitation of the City’s aging housing or unnecessarily increasing the costs of needed renovations.



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We; therefore, urge the Council to work with key stakeholders to identify workable solutions and not ones that will cause further deterioration of the City's rental housing supply and unduly burden the City's rental housing providers. Thank you for your time and consideration of these matters. If you have any questions, please call me at (213) 384-4131; Ext. 309 or contact me via electronic mail at danielle@aagla.org.

Very truly yours,

Danielle Leidner-Peretz

Communication from Public

Name: Jonathan Jager

Date Submitted: 03/16/2020 02:54 PM

Council File No: 20-0203

Comments for Public Posting: The Legal Aid Foundation of Los Angeles provides free legal services to low-income residents throughout Los Angeles County. We write in strong support of this motion to locally regulate no-fault just cause evictions pursuant to California's Tenant Protection Act of 2019 (AB 1482). As advocates who worked on similar legislation in the City of Long Beach, we understand just how impactful and necessary this clarification is. It is also important to recognize and adopt sufficient local legislation to avoid preemption by state law. Please see our attached letter regarding why technical corrections are necessary to avoid unnecessary delay in implementation.

March 16, 2020

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Re: Council File No. 20-0203 - Draft Ordinance to Regulate No-Fault Just-Cause Evictions Based on Intent to Substantially Remodel Residential Real Property

Dear Honorable City Council,

The Legal Aid Foundation of Los Angeles provides free legal services to low-income residents throughout Los Angeles County. We write in strong support of this motion to locally regulate no-fault just cause evictions pursuant to California's Tenant Protection Act of 2019 (AB 1482). As advocates who worked on similar legislation in the City of Long Beach, we understand just how impactful and necessary this clarification is. It is also important to recognize and adopt sufficient local legislation to avoid preemption by state law.

Local protection is important and necessary to avoid pretextual evictions

LAFLA has counseled many tenants in the past months who have received 60 Day notices purporting to comply with the recently-enacted state law requiring just cause eviction. These notices justify the evictions on the grounds that the landlord intends to "substantially remodel" the units, but contain no explanation or proof. Under the Tenant Protection Act, landlords can legally displace tenants in order to substantially remodel, but that term is specifically defined:

"[S]ubstantially remodel" means 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 with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

California Civil Code Section 1946.2(b)(2)(D)(ii).

In order to displace a tenant under this section, a landlord must (1) be doing the kind or type of work enumerated; (2) the work cannot be done with the tenant in place; and (3) the work will require the tenant to vacate for more than 30 days. Under existing state law, all three of these requirements must be satisfied in order for a landlord to legally displace the tenant.

Other Office Locations:

East Los Angeles Office, 5228 Whittier Blvd., Los Angeles, CA 90022; 213-640-3883

Long Beach Office, 601 Pacific Ave., Long Beach, CA 90802; 562-435-3501

Santa Monica Office, 1640 5th St., Suite 124, Santa Monica, CA 90401; 310-899-6200

Ron Olson Justice Center, 1550 W 8th Street, Los Angeles, CA 90017; 323-801-7989

The substantive changes proposed by this ordinance would supplement existing state law for landlords in Los Angeles by requiring them to obtain the required permits and specifically explain to the tenant circumstances that, under state law, must already exist. This ordinance would merely shift the burden of producing that information. Under it, the landlord will need to proactively inform the tenant of the conditions that create just cause for terminating their tenancy, allowing the tenant sufficient information to verify whether or not the landlord has complied with state and local law. Under existing state law, while the standard is virtually identical (save for the landlord's obligation to obtain and attach any permits), the reality is much different. Tenants currently must enter eviction proceedings and use legal tools such as discovery and depositions to verify whether the landlord's substantial remodel is genuine or pretextual. This is an especially onerous obligation to place on tenants, when 90% of tenants go through the eviction process unrepresented¹. Thus, the proposed ordinance will guarantee that legitimate evictions can proceed as allowed under state law while ensuring that tenants in Los Angeles are not harassed or displaced by pretextual or insufficient notices.

Without technical amendments, this ordinance may be preempted by state law

As detailed above, it is critical that this ordinance pass and be enforceable in order to protect Los Angeles's renters. However, the ordinance as drafted may be preempted by state law for technical reasons. The statewide just cause eviction rules, created by AB 1482 and codified as California Civil Code Section 1946.2, supersede local protections except in specific circumstances. Relevant here is subsection (g)(1)(B), which governs the applicability of local ordinances enacted after September 1, 2019. In order to avoid preemption and a reversion to state law, the local ordinance must (1) be consistent with state law; (2) provide deeper or additional protections than state law; and (3) contain a binding legislative finding that the local ordinance is more protective.

While the proposed ordinance is not inconsistent with state law, does provide an additional protection, and does contain the required legislative finding, LAFLA remains concerned that California Civil Code Section 1946.2(g)(3) may unintentionally undo this Council's hard work. Subsection (g)(3) states that "[a] local ordinance adopted after September 1, 2019, that is less protective than this section [1946.2] shall not be enforced unless this section [1946.2] is repealed." This local ordinance as a whole is less protective than the state law because it does not specifically contain any of the other state law protections. Therefore, it could be argued that subsection (g)(3) will render this ordinance unenforceable. To avoid preemption or potential litigation that would delay implementation, the City should instead adopt as a local ordinance the language of California Civil Code section 1946.2 verbatim (with minor deletions, including subsection (g), for form and legality). If the just cause protections of AB 1482 are adopted as a local ordinance in the Los Angeles Municipal Code, there is no question that the additional protections around substantial renovation evictions would be enforceable. This was the approach taken by the City of Long Beach when it adopted a substantially similar policy on February 18, 2020.²

LAFLA appreciates the City Council's deep commitment to protecting and expanding the rights of Los Angeles's renters. We hope that you will take our recommendation and avoid any uncertainty or delay.

Sincerely,



Jonathan Jager
Staff Attorney

¹ Los Angeles Right to Counsel Coalition. <https://rtcla.org/the-crisis/>

² Long Beach Municipal Code Chapter 8.99.