



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Manager's Office



Date: January 25, 2017
Board Meeting Date: February 14, 2017
Special Notice / Hearing: N/A
Vote Required: Majority

To: Honorable Board of Supervisors

From: John Maltbie, County Manager

Subject: Adoption of an Ordinance Adding Chapter 3.108, Consisting of Sections 3.108.010 to 3.108.140, to Title 3 of the San Mateo County Ordinance Code Establishing Property Owner Obligations With Respect to Tenants Displaced from Unsafe or Substandard Units

RECOMMENDATION:

Adoption of an ordinance adding Chapter 3.108, consisting of Sections 3.108.010 to 3.108.140, to Title 3 of the San Mateo County Ordinance Code establishing property owner obligations with respect to tenants displaced from unsafe or substandard units, previously introduced on January 24, 2017, and waive the reading of the ordinance in its entirety.

BACKGROUND:

Many tenants throughout San Mateo County have been forced to vacate substandard rental units which should have never been rented in the first place or that have been rendered unsafe because of code violations that are the responsibility of the owners of the units. Once forced to vacate their homes, the tenants face the increasingly difficult task of finding affordable replacement housing and the burden of paying moving-related expenses. Monetary relocation payments paid for by the responsible property owners help displaced tenants secure safe replacement housing, hold the property owners accountable for the financial hardships they cause their tenants, and deter other property owners from engaging in similar conduct.

California Health & Safety Code section 17975, *et seq.*, authorizes local governments to develop programs addressing tenant displacement from residential units due to certain code enforcement activities. Under such programs, local government agencies determine eligibility for relocation benefits, define those benefits, and establish appeals process to safeguard due process rights of property owners who are ordered to pay relocation benefits. A number of cities have enacted similar ordinances, including Redwood City, East Palo Alto, San Diego, Oakland, and Berkeley.

DISCUSSION:

Proposed Chapter 3.108 of the San Mateo County Ordinance Code would establish a relocation assistance program for tenants who are displaced from their rental units either because the units never qualified as legal or because of code violations that are the responsibility of the property owner. Specifically, the property owner must pay the displaced tenant household relocation payments and provide the tenant household the option to return to the unit once it is ready for reoccupancy under the same terms and conditions which applied before the displacement. The proposed ordinance is consistent with California Health & Safety Code section 17975, *et seq.*

The amount of the relocation payments due under the proposed ordinance depends on whether the tenant displacement is permanent or temporary. For a permanent displacement, which means the unit will **not** foreseeably be ready for reoccupancy within 90 days, the relocation benefit is three times the current monthly HUD Fair Market Rent for a unit of comparable size and type, and a payment of up to \$1,000 for moving costs and related expenses actually incurred by the tenant. (By way of example, the 2017 monthly HUD Fair Market Rent for a two-bedroom apartment in San Mateo County is \$3,018, and under the proposed ordinance, the relocation benefit for a tenant household permanently displaced from a two-bedroom apartment would be \$9,054 (\$3,018 x 3), plus moving costs up to \$1,000.)

For a temporary displacement, which means the unit **will** foreseeably be ready for reoccupancy within 90 days, the amount of the relocation payment is the actual and reasonable temporary housing costs and moving costs incurred by the tenant household.

Further, whenever any permanent or temporary displacement is immediate, which means the tenant household must leave the unit with fewer than 30 days notice, the property owner must pay the tenant household an additional \$1,000. If the property owner and the tenant household subsequently agree that a displacement initially determined to be temporary will be permanent, the property owner will be responsible for making relocation payments required for a permanent displacement in addition to having made relocation payments required for a temporary displacement.

The County may, but is not required to, advance the relocation payments to a displaced tenant household, and then recover from the property owner the amount advanced plus any related administrative costs. The County may make such payments in the event that the property owner does not timely make required payments, or in the event that a displaced tenant household cannot afford to incur moving expenses and temporary accommodation costs on its own before submitting said expenses and costs to the property owner for reimbursement. Further, the County Manager, in consultation with the County Counsel, may reduce the amount that a property owner is required to repay the County when the facts and legal circumstances warrant such a reduction. If the property owner fails to timely reimburse the County for relocation payments made on the property owner's behalf, the County is entitled to recover an additional amount equal to the sum of one-half the amount advanced, but not to exceed ten thousand dollars (\$10,000), as authorized by the California Health & Safety Code. The County may also secure the amount due from the property owner as a lien against the subject property.

The property owner has a right to appeal an order to pay relocation payments and request a hearing. Relocation payments are not required if the property owner proves that: (1) the displacement of the tenant household was not primarily caused by a code violation; (2) the code violation was caused by the tenant household or the tenant household occupied the unit for the purpose of obtaining relocation benefits; (3) the tenant household prevented the property owner from remedying the code violation; (4) the code violation is remedied before the tenant household has taken definitive steps to move; (5) the notice requiring the displacement of the tenant household is withdrawn by the County or overturned on appeal before the tenant household takes definitive steps to move; (6) the property owner offers, in writing, to relocate the tenant household into a comparable replacement unit within the same building; or (7) the tenant household is required to vacate due to a natural disaster or similar occurrence beyond the property owner's control. Appeals must be addressed to the Director of the Planning and Building Department.

Each violation of the proposed ordinance is an infraction subject to fines up to \$300, and, notwithstanding any other rights granted under the ordinance, a displaced tenant household retains the right to also bring a civil action against the property owner.

The ordinance also includes a sunset clause, which provides that the ordinance will sunset on the date that is one year from its effective date unless extended by the Board of Supervisors before the sunset date.

Staff are also working on other related initiatives, including an Accessory Dwelling Unit (ADU) Amnesty Program, which Staff anticipate will be presented to the Board in the late spring. The purpose of the County's proposed ADU Amnesty Program would be to ensure that all ADUs in the County are safe and habitable and to enable certain unpermitted ADUs to be legalized in safe and habitable condition in the unincorporated of San Mateo County. Staff are aware that some ADUs, which may be subject to this ordinance, may also qualify for amnesty under the proposed ADU Amnesty Program.

SHARED VISION 2025:

Proposed Chapter 3.108 is consistent with the County's shared vision goals of fostering a healthy and livable community.

FISCAL IMPACT:

The fiscal impacts of proposed Chapter 3.108 are still being determined. While there may be marginal additional costs and staff time related to implementation and enforcement of the program, the relocation payments are generally to be made by property owners whose properties are the subjects of enforcement action. However, the County may, on occasion, advance relocation benefits to displaced tenants, with the expectation that amounts advanced, plus any related administrative costs, will be reimbursed by the property owner. If the property owner fails to timely reimburse the County, the County is entitled to recover an additional amount equal to one-half the amount advanced, up to ten thousand dollars (\$10,000). The County may also secure the amount due from the property owner by placing a lien against the subject property or otherwise filing suit. Finally, there will likely be additional costs incurred and staff

time required to process appeals filed by property owners. However, any such fiscal impacts would likely be mitigated by the required appeal processing fee.