



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** BOARD OF SUPERVISORS  
**DISTRICT 1**  
**File #:** 19-1112

Board Meeting Date: 11/19/2019

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**Vote Required:** 4/5

**To:** Honorable Board of Supervisors  
**From:** Supervisor Dave Pine  
**Subject:** Urgency Ordinance Implementing Tenant Eviction Protections and Limiting Large Rental Rate Increases Effective Immediately to Avoid Circumvention of AB 1482

**RECOMMENDATION:**

Adopt an urgency ordinance implementing tenant eviction protections and limiting large rental rate increases effective immediately to avoid circumvention of Assembly Bill 1482 (AB 1482).

**BACKGROUND:**

On September 11, 2019, California State Assembly Bill 1482 (AB 1482), the "Tenant Protection Act of 2019", passed the Legislature. On October 8, 2019, Governor signed the bill into law. AB 1482, which will go into effect on January 1, 2020, implements two tenant protections on applicable residential rental units: (1) just cause eviction protections, which include providing relocation assistance when a landlord terminates a lease through no fault of the tenant, and (2) a cap on rent increases.

The proposed urgency ordinance, which would go into effect immediately, would provide both of these tenant protections until January 1, 2020, the effective date of AB 1482. By adopting the proposed ordinance, the County would be joining other cities in San Mateo County that have recently taken action to implement all or portions of AB1482 immediately, including the City of Daly City, the City of San Carlos, the City of San Mateo, the City of Redwood City and the City of Menlo Park.

**Just Cause Eviction Protections**

The just cause eviction protections under AB 1482 would require a landlord to have a valid reason for terminating a tenancy. Some examples of just cause eviction protections include non-payment of rent, violation of a lease term, and nuisance. The just cause eviction protections under AB 1482 only apply to tenants who have resided in a unit for 12 months or more.

AB 1482 also addresses limited "no-fault" just cause evictions" such as owner occupancy, occupancy of the unit by certain members of the owner's family, withdrawal of the unit from the market (Ellis Act), compliance with the government order related to habitability of the building and intent to demolish or substantially remodel the property. In these circumstances, AB 1482 requires landlords to provide tenants with one month's rent as relocation assistance. The relocation assistance is paid regardless

of a tenant's income.

### Cap on Rent Increases

AB 1482 introduces a cap on rent control increases that would allow a landlord to raise rents by 5 percent per year plus the percentage change in the cost of living, or 10 percent, whichever is lower. The increase is tied to annual April to April Bay Area Consumer Price Index (CPI). To provide historical context, the annual April CPI percentage change for the last four years was 3.2 percent in 2018, 3.8 percent in 2017, 2.7 percent in 2016 and 2.4 percent in 2015. The April 2019 Bay Area CPI increase was 4.0 percent, which would result in a maximum increase of 9.0 percent once AB 1482 becomes effective.

AB 1482 also includes a retroactivity provision, which makes its rent cap provisions applicable to rents increased after March 15, 2019. If rents were increased after March 15, 2019, the rent on January 1, 2020, is reduced to the rent as of March 15, 2019, plus the maximum increase allowed by AB 1482. However, the legislation also provides that if the tenant pays the increased rent during this period, the landlord does not have to refund the rent increase paid by the tenant. Thus, the tenant is placed in a difficult position. If they do not pay the increased rent, they risk being evicted for non-payment of rent. On the other hand, if they do pay the rent, the landlord is not required to refund the overpayment. As discussed below, the proposed ordinance attempts to address this dilemma by establishing a legal defense to an unlawful detainer based on non-payment of rent under this circumstance.

### Units Exempted from AB 1482

Under AB 1482 certain housing units are not subject to the provisions in the law. The *just cause eviction protections* and the *cap on rent increases* do not apply to units that:

- Were issued a certificate of occupancy in the previous 15 years;
- Are dormitories owned by an educational institution;
- Are affordable housing restricted by a deed covenant, regulatory agreement or other recorded document;
- Are single-family homes or condominium units where the owner is not a real estate investment trust, a corporation, or a limited liability company where at least one member is a corporation, so long as the tenants are given notice of the exemption as required by the statute that the just cause protections do not apply to the tenant; and
- Are duplexes where the owner is occupying one of the units as the owner's principal residence at the commencement of the tenancy and continues to occupy the property as its principal residence.

In addition to the types of units listed above, the following units are exempt from the just cause eviction protections only:

- Transit and tourist hotel occupancies;
- Housing in nonprofit hospitals, religious facilities, extended care facilities, license care facilities for the elderly or an adult residential facility;
- Housing where the tenant shares bathroom or kitchen facilities with the owner and the housing is the owner's principal residence;
- Owner-occupied homes where the owner rents no more than 2 units or bedrooms, including accessory dwelling units; and
- Rental units covered by a local just cause ordinance, if the ordinance was adopted on or before September 1, 2019, or rental units covered by a local ordinance adopted after

September 1, 2019 that is more protective than the provisions of AB 1482.

#### AB 1482 Enforcement

Regarding enforcement of the provisions of AB 1482, the law is unclear and does not specify how enforcement is to occur. It is assumed by County staff that tenants will need to enforce the law using the legal system by filing causes of action against violating landlords in Civil Court. San Mateo County partners with Community Legal Services and Legal Aid Society to assist low-income renters in San Mateo County with eviction and other tenancy issues.

#### Legal Challenges to AB 1482

On October 15, 2019, an anti-rent control group filed a lawsuit in U.S. District Court against California Governor Gavin Newsom and the City of Long Beach, alleging that AB 1482 violates the Takings Clause on the California Constitution, as well as the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. These legal claims have not yet been resolved.

#### **DISCUSSION:**

At my request, the attached draft urgency ordinance has been prepared for the Board's consideration. The proposed ordinance implements just cause eviction protections and establishes a cap on rent increases for applicable units through December 31, 2019. The draft ordinance includes an urgency clause that would cause the ordinance to become effective upon its adoption.

For the Board to adopt an urgency ordinance, it must declare that there is a current and immediate threat to the public peace, health and safety. Having a verifiable basis for this declaration will help position the County to survive a legal challenge. County rules require the ordinance pass with four out five board members voting to approve and would go into effect immediately. The proposed ordinance would expire at midnight on December 31, 2019 and AB 1482 would go into effect immediately thereafter.

#### Just Cause Eviction Protections

The proposed ordinance would prevent landlords from acting on any eviction notice served on or after November 19, 2019 if the notice was not based on just cause. In addition, if the notice was based on a "no fault" just cause, the landlord could proceed but would have to pay relocation payments as specified under AB 1482. Likewise, any unlawful detainer actions filed on or after November 19, 2019 would have to comply with the just cause eviction protections established in AB 1482. For example, a landlord issues a 60-day no cause notice to terminate a tenancy on September 19, 2019, and the tenant remains in the rental unit beyond the 60-day notice period. If the landlord then files an unlawful detainer action at on or after November 19, 2019 to evict the tenant from the rental unit, the tenant could invoke the just cause protections set forth in AB 1482 as a legal defense.

#### Cap on Rent Increases

The proposed ordinance would implement AB 1482's prohibition against large rent increases retroactive to March 15, 2019. The proposed ordinance would apply retroactively to notices of rent increases served on or after September 20, 2019, 60 days before the effective date of the urgency ordinance. Under State law, landlords must provide a 30 or 60-day notice of a rent increase. Thus, the proposed ordinance protects those tenants who would still be in the notice period.

To protect those tenants who received rent increase notices on or after September 20, 2019, the proposed ordinance clarifies that such notices are void only if they include any rent increases beyond those permitted under AB 1482 and provides tenants with a legal defense to an unlawful detainer

action if they are evicted for failing to pay said rent increases. A landlord would still be permitted to enforce rent increases that comply with the limits set under AB 1482, but the landlord would have to serve an amended notice of the rent increase within 10 days of the effective date of this ordinance.

**FISCAL IMPACT:**

The adoption of the proposed urgency ordinance will result in a temporary increased workload for Department of Housing (DOH) staff as it is expected that tenants will contact the County with questions. DOH staff will provide information about the ordinance and make referrals to legal resources.