

Oakland – Measure 3 – Ordinance #: 86320

Measure___. Shall Oakland's Just Cause For Eviction and Rent Adjustment Ordinances be amended by: (1) extending just-cause eviction requirements from residential rental units offered for rent on or before October 14, 1980 to those approved for occupancy before December 31, 1995; and (2) requiring landlords to request approval from the City before increasing rents by more than the cost-of-living adjustment allowed by City law?

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE JJ

PROPOSED AMENDMENTS TO OAKLAND'S JUST CAUSE FOR EVICTION AND RENT ADJUSTMENT ORDINANCES

Summary:

Oakland's current Just Cause for Eviction Ordinance ("Just Cause Ordinance") generally prohibits landlords from evicting tenants from residential rental units covered by the ordinance unless there is just cause for the eviction. Oakland's Rent Adjustment Ordinance ("Rent Ordinance") allows tenants to ask the City's Rent Adjustment Program ("Rent Program") to reverse rent increases that exceed the cost-of-living adjustments ("COLA") allowed under City law. This measure would change the two ordinances so that more units would be covered by the just-cause eviction requirements, and so that landlords would be required to obtain advance approval from the Rent Program before raising rents by more than the COLA.

Exemption for New Construction

Under current law, the Just Cause Ordinance generally covers residential rental units that were completed and offered for rent on or before October 14, 1980 and does not cover units that were newly constructed or first offered for rent after that. This measure would extend the just cause requirements to rental units constructed and approved for occupancy before December 31, 1995, if the units were newly constructed from the ground up and not created by rehabilitating, improving, or converting pre-existing commercial space or other residential rental space. If a rental unit or building has not received a certificate of occupancy, the date the last permit for the new construction was finalized before occupancy would determine whether the unit is subject to the just-cause eviction requirements.

Petitions for Rent Increases

Currently, landlords of units covered by the Rent Ordinance may increase rents without the City's advance permission, unless a tenant objects by filing a petition with the Rent Program. But, a tenant generally may not object if the increase is within the allowable COLA. The COLA is based on changes to the Consumer Price Index in previous years.

The measure would amend the Rent Ordinance to require that landlords obtain approval from the Rent Program before imposing any rent increases exceeding the COLA. Without advance approval, landlords could not make tenants pay any rent increases noticed on or after February 1, 2017 exceeding the allowable adjustment.

Notice to Landlords and Tenants

The measure would require the City to provide an annual notice to residents and owners of all covered units. The notice would include the amount of the allowable cost-of-living rent adjustment for the year and explain how to get information to petition for a rent increase exceeding the COLA or to oppose a petition for such a rent increase.

Administration

The measure would require the City Administrator to report annually to the City Council on the status of the Rent Program. The measure would also require the City Administrator to develop a searchable, public database with information about hearing decisions, appeals, and notices filed.

s/DENNIS J. HERRERA
San Francisco City Attorney

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE JJ

The Just Cause for Eviction Ordinance (“Just Cause Ordinance”) (O.M.C. § 8.22.300, et seq.) generally prohibits landlords from evicting tenants without just cause from residential rental units covered by the ordinance. The voters adopted and therefore must approve any amendments to this Ordinance. The Rent Adjustment Ordinance (O.M.C. § 8.22.100, et seq.) allows tenants to ask the City’s Rent Adjustment Program (“Rent Program”) to reverse rent increases that exceed the cost-of-living adjustment (“COLA”) allowed under City law. This measure would extend just-cause requirements to more units and require landlords to obtain advance approval from the Rent Program before raising rents more than the COLA.

Exemption for New Construction

The Just Cause Ordinance prohibits evictions without just cause for residential rental units in Oakland that were completed and first offered for rent on or before October 14, 1980. Just cause protections do not apply to units completed and first offered for rent after October 14, 1980, unless the new units were created by rehabilitating, improving, or converting pre-existing space.

The measure would extend the just cause requirements to new units constructed and approved for occupancy before December 31, 1995. As a result, just cause would be required to evict tenants from rental units approved for occupancy between October 23, 1980 and December 30, 1995, unless the units are exempt from just cause for other reasons. If the City did not issue a certificate of occupancy for a rental unit, then whether the unit was subject to just cause requirements would depend on the date the last construction permit was finalized before occupancy.

Petitions for Rent Increases

The Rent Ordinance currently allows landlords to make COLA adjustments in rent based on changes to the Consumer Price Index. A landlord is not required to obtain advance approval from the City before imposing a rent increase exceeding the allowable adjustment. If a rent increase exceeds the allowable adjustment, the tenant may object by filing a petition with the Rent Program.

The measure would amend the Rent Ordinance to require that landlords obtain approval from the Rent Program before imposing any rent increases exceeding the COLA. Without advance approval, landlords could not make tenants pay any rent increases noticed on or after February 1, 2017 exceeding the COLA.

Notice to Landlords and Tenants

The measure would amend the Rent Ordinance to require the City to provide an annual notice to residents and owners of all covered units. The notice would include the amount of the allowable COLA increase and explain how to get information to petition for a rent increase exceeding the COLA, or how to challenge such a petition.

Administration

The measure would amend the Rent Ordinance to require the City Administrator to report annually to the City Council on topics such as Rent Board vacancies, statistics on petitions and evictions, and other information. The measure would also require the City Administrator to develop a searchable, public database with information about hearing decisions, appeals, and notices filed.

s/DENNIS J. HERRERA
San Francisco City Attorney

CITY AUDITOR'S IMPARTIAL ANALYSIS OF MEASURE JJ

This measure proposes amendments to the Rent Adjustment Program (RAP) and Just Cause for Evictions (Just Cause) ordinances (O.M.C. 8.22.100 and 8.22.300, respectively) to, if approved by voters:

- (1) require residential rental property owners and landlords to file petitions for rent increases other than those based on the annual consumer price index or banking (effective February 1, 2017);
- (2) increase transparency and reporting; and
- (3) modify the Just Cause for Eviction Ordinance to apply to units constructed on or before December 31, 1995 (currently October 14, 1980).

The last two components of the measure go into effect, if approved by the voters, 10 days after the results of the vote are declared by the City Council.

Financial Impact

Property owners of residential rental units covered under these ordinances are assessed an annual Rent Program Service fee per unit (owners may pass through one-half of the fee to the tenant). These monies are used to support RAP operations.

An increase (or decrease) in cost to operate the program relates primarily to changes in workload and staff time due to a greater (or lesser) number of petitions submitted to RAP. Under this measure, landlords must petition RAP to increase rent in excess of the allowable limits or to pass on the costs of capital improvements to their tenants. Tenants may continue to appeal petition decisions and may use the petition process to contest decreased housing services. Given this, it is probable that the number of petitions will increase under this measure and add to the caseload. Expanded informational reporting may also impact staff workload. If these changes result in significant increased costs, the Program Service fee may need to be increased to support the costs of the RAP operations.

Further, this measure will expand the properties covered under Just Cause from those built prior to October 14, 1980 to those constructed prior to December 31, 1995. Owners of these properties will be assessed the annual Rent Program Service fee.

Background

Oakland's RAP presently permits landlords to petition for rent increases, but in most cases tenants petition to contest rent increases that exceed an annual rent allowance. Under the proposed measure, rent increases are restricted to the Consumer Price Index or banked rents unless a petition, filed by the landlord or property owner, is approved by the RAP.

Currently, RAP requires an annual reporting on its activities and operations. The proposed measure expands the reporting requirements to include Rent Board vacancies, Rent Board meeting cancellations, and other statistics and information.

The effective dates for and the protections afforded under RAP and Just Cause ordinances are different. Tenants living in rental units constructed prior to January 1, 1983 are afforded protections under the Just Cause and RAP ordinances. Tenants residing in rental properties built between January 1, 1983 and prior to December 31, 1995 are only protected under the Just Cause for Evictions Ordinance.

s/BRENDA D. ROBERTS
City Auditor

Protect Oakland Renters, Vote Yes on Measure JJ.

In March, Mrs. Paula Beale, a 63-year-old grandmother with health issues, living on a fixed income, received notice that her rent would be raised 27%. She had to leave her home.

Mrs. Paula is part of the shocking statistics that illustrate Oakland's housing crisis. More than 1,000 people are forced from their homes every month, and Oakland rents have risen to the 3rd highest in the nation. Housing displacement and rent increases in Oakland are forcing out long-term residents, like seniors and teachers, who are priced out of the marketplace and the area as a whole.

Measure JJ is part of the solution.

Placed on the ballot by unanimous vote of the City Council, Measure JJ is a straight forward revision of Oakland's current rent control ordinance based on what works to protect renters.

Measure JJ will:

- Require landlords to petition for rent increases above the Consumer Price Index
- Expand Just Cause Eviction Protections to buildings built before 1996
- Strengthen the Rent Board & Rent Adjustment Program (RAP), including public information and notification to make sure tenants and landlords know how much rent can be charged.

This measure protects renters while being fair to landlords. A broad community coalition, including many small landlords are supporting Measure JJ because they want to protect the character of our City. Oakland continues to grow and change, but we must protect low-income residents, families and artists and help them remain here.

Please join us in our campaign at: www.protectoaklandrenters.org

Rebecca Kaplan, Oakland City Council Member At Large
Josie Camacho, Alameda County Central Labor Council (AFL-CIO)
Robin Torello, Alameda County Democratic Party Central Committee
Noel Gallo, Oakland City Council Member
Desley Brooks, Oakland City Council Member

Rebuttal Against JJ

Sound housing policy, like any government policy, should be based on facts, not political spin. Members of Oakland's City Council and renter support groups make the false claim that one thousand evictions are taking place in Oakland each month so that property owners can raise rents. The Oakland City Administrator's office however, shows that number to be closer to 100 per month and mostly for non-payment of rent or nuisance activities.

In reality, were there one thousand evictions each month, renters who are now looking for an apartment would certainly have no problem finding one. But that is far from reality. To the contrary, Oakland's rental vacancy rate is amongst the lowest in the country, making it extremely hard for renters to find scarce vacancies and extremely expensive if they do.

Why is this? For many years Oakland has had strict rent control and a just cause for evictions law that is one of the toughest in California. This year it restricts most rent increases to 2%, and permits evictions only when an owner can prove a just cause in court.

While helping some renters, this housing policy has come at extreme cost to renters overall. In particular, the scarcity of housing it has created has driven Oakland rents well above the national average and made it extremely difficult for lower income residents to compete for scarce housing.

Rents are already high in Oakland, Measure JJ adds to the scarcity and make things worse.

Please vote no on Measure JJ.

Jill Broadhurst, Executive Director, East Bay Rental Housing Association

Wayne Rowland, President, East Bay Rental Housing Association

Property owners AND renters will be negatively affected by this ordinance because it will make it significantly more difficult to remove drug dealers and nuisance individuals from our neighborhoods. Do you want to have to go to court to testify against a drug dealing, problem neighbor? This will preserve their right to stay, affecting your life situation everyday. This adds thousands of units to “Just Cause” protections, protections that keep problem residents in your neighborhood. The only remedy: to spend thousands on a lawyer, or get the city attorney’s office involved.

70% of Oakland rentals are 2-6 unit buildings, owned by mom-and-pop owners, who have deep roots in the community and consist of ethnic minorities and immigrants.

85% of Oakland rentals are older housing that brings continued maintenance. No one wants to live next to a blighted eyesore, but this strict measure will cause cash-strapped small owner to just do the bare minimum.

85% of Oakland’s housing is covered by rent control, which means current rent increases are an annual 2.0%, last year it was 1.7%. Anything built after 1995 is not covered by this measure and will NOT add protections to those residents.

Garbage and recycling for rental properties went up as much as 500% for all buildings! City council just voted to increase the rent adjustment program fee by more than double. Next year council will roll out new programs for small owners and add more fees!

Oakland’s City auditor issued a report stating how flawed and mismanaged the Rent Adjustment Program is. Let’s fix the Rent Adjustment Program instead of punishing struggling Oakland residents and businesses.

This measure will tear down older, quality housing and build new, cheap box-designed, decontrolled buildings. Oakland needs more housing, but let us preserves our diversity and the future of Oakland. Vote NO.

Jill Broadhurst
Executive Director, East Bay Rental Housing Association

Vote Yes on Measure JJ, Protect Oakland Renters

Measure JJ is a fair approach to Oakland's housing crisis. It protects renters who have done nothing wrong from losing their homes.

Measure JJ does not change the ability of landlords to evict tenants who are breaking their leases or the law. Owner-occupied duplexes and triplexes are exempt from Measure JJ.

A broad community coalition, including small landlords and tenants, supports Measure JJ because we know that Oakland is at risk of losing long-term residents and community ties.

The Rent Adjustment Program must be fixed. Measure JJ strengthens this program, requiring public information and notification to make sure tenants and landlords know how much rent can be charged.

Rents are up 11.6% over the past year, and Oakland is one of the most expensive cities in the nation. As many as 1,000 tenants are being forced from their homes every month. When a tenant is displaced, they are also forced from their neighborhood and in many cases out of town or on to the streets.

Oakland is one of the most diverse cities in America – it's one of the reasons we love living here. We need to protect against the evictions and rent increases that are displacing people out of our city.

Please join us and vote Yes on Measure JJ.

Rebecca Kaplan, Oakland City Councilmember

Angela Glover Blackwell, Social Justice Advocate

Rev. Matt Prinz

Chris Finn, Small Landlord

Alia Phelps, Tenant

FULL TEXT OF MEASURE JJ

Section 1. Amendments to Rent Adjustment Ordinance (O.M.C. Chapter 8, Article I (8.22.100, et seq.). Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type.

8.22.065 - Rent Adjustments In General.

A. Notwithstanding any other provision of this Chapter, owners may increase rents only for increases based on the CPI Rent Adjustment or Banking, or by filing a petition to increase rent in excess of that amount. Any rent increase not based on the CPI Rent Adjustment or Banking that is not first approved by the Rent Adjustment Program is void and unenforceable.

B. Rent increases are subject to the requirements of this Chapter and Regulations.

C. The changes reflected in this O.M.C. subsection 8.22.065 only apply to rent increases noticed on or after February 1, 2017.

8.22.250 – Administration, Reports, and Notices to Owners and Tenants.

A. The City Administrator shall report annually on the status of the Rent Adjustment Program to the City Council or to such City Council Committee as the City Council may designate. Such reports shall include, but shall not be limited to the following:

1. Rent Board vacancies,
2. Rent Board meeting cancellations,
3. Statistics on the number and type of petitions filed and outcomes, including rent increases granted.
4. The timeliness of petition hearings and appeals,
5. Statistics on numbers and types of eviction notices filed pursuant to the Just Cause for Eviction Ordinance (Chapter 8, Article II, O.M.C. 822.300, et seq.)
6. Number and types of rental units covered by this Chapter.
7. Any other information the City Council or Committee may request.

- B. The City Administrator shall develop searchable data bases for ready public access to information on hearing decisions, appeals, and notices filed. To the extent consistent with state and City public records and sunshine laws, names and personal information shall not be included in the database or otherwise shall be redacted from release of filed notices.
- C. The City shall make available translation services in languages other than English, where requested in advance, to interpret and translate documents and procedures as needed related to Board Hearings and Appeals.
- D. Notices to Tenants and Owners.
1. The City shall annually provide notification to all Covered Units information, including but not limited to, the amount of the annual CPI Rent Adjustment, Banking (as an allowable increase without landlord petitioning) and information on how to get information to challenge a rent increase, and other questions about rents and Rent Adjustment Program procedures.
 2. The City shall annually provide notification to all Owners with Covered Units, including but not limited to, the amount of the annual CPI Rent Adjustment, Banking (as an allowable increase without landlord petitioning), and information on how to get information to petition for a rent increase, and other questions about rents and Rent Adjustment Procedures.

Section 2. Amendments to the Just Cause for Eviction Ordinance (Measure EE)(O.M.C. Chapter 8, Article II (8.22.300, et seq.). Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type.

8.22.350 – Applicability and Exemptions. The provisions of this chapter shall apply to all rental units in whole or in part, including where a notice to vacate/quit any such rental unit has been served as of the effective date of this chapter but where any such rental unit has not yet been vacated or an unlawful detainer judgment has not been issued as of the effective date of this chapter. However, Section 6 [8.22.360] and Section 7(A)-(E) [8.22.370(A) through 8.22.370(E)] of the chapter [O.M.C. Chapter 8.22, Article II] shall not apply to the following types of rental units:

- A. Rental units exempted from Part 4, Title 4, Chapter 2 of the California Civil Code (CCC) by CCC § 1940(b).

- B. Rental units in any hospital, skilled nursing facility, or health facility.
- C. Rental units in a nonprofit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- D. Rental units in a nonprofit facility which provides a structured living environment that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time of not more than twenty-four (24) months and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- E. Rental units in a residential property where the owner of record occupies a unit in the same property as his or her principal residence and regularly shares in the use of kitchen or bath facilities with the tenants of such rental units. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.
- F. A rental unit in a residential property that is divided into a maximum of three units, one of which is occupied by the owner of record as his or her principal residence. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.
- G. A unit that is held in trust on behalf of a developmentally disabled individual who permanently occupies the unit, or a unit that is permanently occupied by a developmentally disabled parent, sibling, child, or grandparent of the owner of that unit.
- ~~H. Newly constructed rental units which are completed and offered for rent for the first time after the effective date of the initial Oakland Residential Rent, Relocation, and Arbitration Ordinance, provided that such new units were not created as a result of rehabilitation, improvement or conversion as opposed to new construction.~~

- I. A rental unit or rental units contained in a building that has a certificate of occupancy for the new construction of the unit or building in which the rental unit(s) is contained is issued on or after December 31, 1995;
1. This exemption applies only to rental units that were newly constructed from the ground up and does not apply to units that were created as a result of rehabilitation, improvement or conversion of commercial space, or other residential rental space;
 2. If no certificate of occupancy was issued for the rental unit or building, in lieu of the date a certificate of occupancy, the date the last permit for the new construction was finalized prior to occupancy shall be used;

Section 3. Rent Adjustment Ordinance (O.M.C. Chapter 8, Article I (8.22.100, et seq.) miscellaneous.

A. The City Council may not modify or repeal the specific text of the Rent Adjustment Ordinance inserted, modified or deleted by Section 1 of this measure as shown in double underline for added text and strikethrough type for deleted text; however, the City Council may modify any other provisions in the Rent Adjustment Ordinance. The City Council may modify the specific text inserted, modified or deleted by this Measure only if required by a court decision or state law that invalidate or require modification. The Rent Board may make a recommendation for revisions to be forwarded to the City Council for consideration.

B. The amendments set out in Section 1 (Rent Adjustment Ordinance) of this Measure do not apply to any valid rent increase notice given prior to the effective date of this Measure.

C. It is anticipated that the amendments to the Rent Adjustment Ordinance set out herein may require further amendments to the Rent Adjustment Ordinance and Rent Adjustment Regulations. The City Council may make such other changes to the Rent Adjustment Ordinance and the Rent Adjustment Board may make such changes necessary to conform the Rent Regulations to the Rent Adjustment Ordinance made herein.

Section 4. Just Cause for Eviction Ordinance (Measure EE)(O.M.C. Chapter 8, Article II (8.22.300, et seq.)) miscellaneous.

A. Should any provision of the Just Cause for Eviction Ordinance (Measure EE)(O.M.C. Chapter 8, Article II (8.22.300, et seq.) (Section 2) or any provision of this Measure, be invalidated or required to be modified by a court decision or change in State or Federal law, the Rent Board may make a recommendation for revisions to be forwarded to the City Council for consideration. The City Council is authorized to make to such modifications to conform to the court decision or change in state law provided that such modifications effectuate the purpose of the Just Cause for Eviction Ordinance and the original text.

B. The amendments set out in Section 2 (Just Cause Ordinance) of this measure do not apply to any valid notice terminating tenancy given prior to the effective date of this measure.

Section 5. Severability. If any section, subsection, sentence, clause or phrase of this Measure is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Measure. The voters hereby declare that it would have passed this Measure and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. In lieu of severance, any section declared invalid or unconstitutional may be modified pursuant to Sections 3 or 4 above, as appropriate.

Section 6. Effective Date. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council.