Communication from Public

Name: Apartment Owners Association of California
Date Submitted: 08/06/2024 02:10 PM
Council File No: 14-0268-S18
Comments for Public Posting: Dear Council Members, The Apartment Owners Association of California (AOA) represents over 20,000 rental property owners in the state of California. All the apartment owners associations that represent owners across the city all agree. We strongly oppose the proposed amendments to the TAHO. AOA completely agrees with the sample letter created by CAA: We urge you to ensure balance is maintained in items 2 & 4 on the Housing Committee agenda. Harassment is illegal. The TAHO, established in 2021 after extensive discussion and debate, is now facing proposed amendments that are overly broad, eliminate judicial discretion, and undermine critical protections for housing providers. These changes risk categorizing lawful actions as harassment. The ordinance should not aim to increase litigation or place responsible housing providers at risk of frivolous lawsuits. Instead, it should foster communication and ensure protection for both housing providers and residents. Additionally, the Right to Counsel Ordinance must include annual reporting and tracking to assess outcomes and funding allocation. The "CFCT Notice" should be a single, multilingual notice that directs tenants to a city website for more information, simplifying compliance for housing providers and ensuring accurate information is delivered to residents. Housing providers should not be burdened with seeking translation services for city verbiage. For the past several years, housing providers have felt targeted by the city's ever-growing layers of requirements. These should not impose unreasonable burdens on responsible housing providers. The proposed changes could lead to significant and undue financial strain, increasing costs related to compliance, legal defenses, and potential penalties. This, in turn, may impact the availability and affordability of rental housing. Please maintain the commonsense provisions in item 2 and ensure item 4 is straightforward and easy to comply with.

Communication from Public

Name:	Dr. Peter Lorber
Date Submitted:	08/06/2024 03:32 PM
Council File No:	14-0268-S18
Comments for Public Posting:	This ordinance, the TAHO, is unnecessary. It is unfair and oppressive to property owners. It discourages property ownership, decreases property improvement, and decrease building further housing. Vote NO! Peter Lorber

Communication from Public

Name:	Keep LA Housed Coalition
Date Submitted:	08/06/2024 03:46 PM
Council File No:	14-0268-S18
Comments for Public Posting:	Please see the attached letter submitted on behalf of the Keep LA Housed Coalition

August 5, 2024

Housing & Homelessness Committee
200 North Spring Street
Los Angeles, CA 90012

Re: Tenant Anti-Harassment Ordinance (CF 14-0268-S18)

Dear Councilmembers,

The Keep LA Housed ("KLAH") coalition submits this letter in support of the Motion presented by Councilmembers Raman and Harris-Dawson to make necessary amendments to the City of Los Angeles' existing Tenant Anti-Harassment Ordinance ("TAHO").

TAHO was adopted by the Los Angeles City Council ("City Council") on June 23, 2021, and since then, both the Los Angeles Housing Department ("LAHD") and community advocates have identified numerous obstacles preventing TAHO from serving as a functioning ordinance.[1] Meanwhile,other California cities – both large and small – have enacted functional anti-harassment ordinances which are enforceable by city prosecutors, private attorneys, and tenants themselves.

The Motion introduced by Councilmembers Raman and Harris-Dawson would bring TAHO in line with existing, legally sound, and effective tenant anti-harassment ordinances across California. Most importantly, it will redefine tenant harassment using the prevalent "bad faith" standard, strengthen TAHO's enforcement remedies, and target the most rampant forms of tenant harassment that TAHO originally left unaddressed. The proposed amendments offer the necessary structural changes that will prevent tenant harassment, which was City Council's original intent. This letter will detail these amendments below.

Amendment 1: Updating TAHO's overall definition of harassment.

Proposal. Amend LAMC § 45.33 as follows:

Tenant Harassment shall be defined as a landlord's ~~knowing and willful course of~~ **bad faith** conduct directed at a specific tenant or tenants that causes **the latter** detriment ~~and~~ **or** harm~~, and that serves no lawful purpose, including,~~ **. "Bad faith" refers to willful, reckless, or grossly**

[1] Sewill, Ann (General Manager, Los Angeles Housing Department). "Council Transmittal: Los Angeles Housing Department Report Back on Implementation of the Tenant Anti-Harassment Ordinance." November 30, 2022.

negligent conduct in disregard for legal requirements or in a manner indifferent to the rights of or impact on Tenants.

Rationale

This amendment would redefine harassment in line with established and enforceable definitions from other jurisdictions, which predominantly require that harassing conduct be in "bad faith."[2] "Bad faith" is a state of mind that is either willful (i.e. intentional), reckless (i.e. with complete disregard to reasonably foreseeable impacts), or grossly negligent (i.e. significantly different from how a reasonable, similarly-situated person would behave in similar circumstances). As such, simple mistakes made in good faith would not constitute harassment under KLAH's proposed definition–only objectively culpable conduct would. The current definition of harassment is unique and therefore difficult for courts to consistently apply, lacking the benefit of significant case law.

Amendment 2: Explicitly prohibit common landlord abuses of the right to access a residential unit.

Proposal. Amend LAMC § 45.33.3 as follows:

Abuse of the right of access into a rental unit as established and limited by California Civil Code Section 1954, including **the following:** entering or photographing portions of a rental unit that are beyond the scope of a lawful entry or inspection**; failure to explicitly state the specific justification for entry in notice to the Tenant, failure to reasonably coordinate entry with the Tenant's schedule; misrepresenting the reasons for accessing residential real property as stated on the notice of entry; failure to provide the approximate time window for the entry or providing a time window that is unreasonably excessive in time for the stated purpose; failure to timely notify the Tenant that entry for which the Tenant was previously given notice has been canceled, and/or excessively requesting entry in a manner not reasonably justified by the reason stated on the notice**.

Rationale

Landlords commonly state vague and unverifiable purposes of the entry when serving 24-hour notices of entry to tenants, often citing merely "inspection" or "repairs" when their true purpose is to fish for pretextual reasons for eviction. Importantly, such abuses typically occur when the landlord-tenant relationship has already broken down and tenants feel compelled to be physically present for any entry by their landlord. Consequently, tenants lose entire working days and often jobs in order to be present for landlord entries. Adding insult to injury, there is currently no

[2] "Bad faith," as used here, is a legal term of art requiring conduct be willful, reckless, or grossly negligent.

explicit requirement in state law or TAHO for notification of tenants when a proposed entry has been canceled. When this common and severe pattern of harassment occurs, many tenants simply choose to self-evict due to the lack of legal recourse and feeling that their privacy has been invaded by excessive entries.

Amendment 3: Require meaningful landlord participation in a tenant's rental assistance application.

Proposal. Amend LAMC § 45.33.9 as follows:

Refusing to acknowledge**, facilitate,** or accept receipt of lawful rent payments **or rental assistance payments** as set forth in the lease agreement or as established by the usual practice of the parties or applicable law. **This includes refusal to accept rent paid on behalf of the tenant from a third party, or refusing to timely provide a W-9 form or other necessary documentation for the tenant to receive rental assistance from a government agency, non-profit organization, or other third party.**

Rationale

Landlords are strongly incentivized to refuse rental assistance from rent-stabilized, below-market tenants, as it is in their financial interest to evict the tenants for non-payment and raise the rental unit's rent to the market rate. That is why California Health & Safety Code § 50897.3(e)(2) was passed to preclude landlords from evicting tenants with pending or successful rental assistance applications for COVID-19 rental debt. As rental public assistance programs continue beyond the pandemic, this important protection is necessary in order to ensure that all tenants can benefit from future rental assistance. The City Council is in the process of creating a permanent source of rental assistance funds for tenants through the implementation of Measure ULA.[3] Defining a landlord's refusal to participate in rental assistance programs as harassment would close a new and foreboding loophole in the City's ongoing rental assistance efforts.

Amendment 4: Prohibit unilateral changes to material terms of a tenancy or rental agreement, unless otherwise authorized by law.

Proposal. Insert into LAMC § 45.33 as follows:

Unilaterally imposing or requiring an existing Tenant to agree to new material terms of tenancy or a new rental agreement, unless: (1) the change in the terms of the tenancy is authorized by California Civil Code Sections 1946.2(f), 1947.5, or 1947.12, or required by Federal, State, or local law or regulatory agreement with a government agency; or (2) the

[3] See Los Angeles City Council File No. 23-0036.

change in the terms of the tenancy was accepted in writing by the Tenant after receipt of written notice from the owner that the Tenant need not accept such new term as part of the rental agreement.

Rationale

Non-consensual changes to leases or rental agreements continue to be among the most common forms of landlord harassment, despite being primary drivers of TAHO's original passage. Landlords' uncompensated removal of tenants' parking, laundry facilities, and common areas, as well as material changes to pet policies, security deposit requirements, and guest rules have been hallmarks of tenant displacement long before TAHO was first passed. Unilateral changes to tenants' rental agreements include not only reduction in services or amenities but also other material terms of a lease, such as the time and manner of rental payments, tenant's right to host overnight guests, and security deposit requirements.

The Motion proposes a new enumerated TAHO violation targeting this abusive practice. KLAH's proposed amendment is a verbatim restatement of the analogous prohibition in Oakland's tenant anti-harassment ordinance.[4] Substantially similar language is codified in Richmond and Concord.[5]

Amendment 5: Triple compensatory damages, impose minimum civil penalties in the amount of $2,000 per violation, and require reasonable attorney fees for prevailing parties.

Proposal. Amend LAMC § 45.35.B as follows:

A tenant prevailing in court under this article ~~may~~ **shall** be awarded **three times** compensatory damages **(including damages for mental or emotional distress)**, rent refunds for reduction in housing services, reasonable attorney's fees and costs, imposition of civil penalties up to $10,000 **but no less than $2,000** per violation depending upon the severity of the violation, tenant relocation, and other appropriate relief, as adjudged by the court.

Rationale

Simple economic damages will always fail to truly compensate victims of tenant harassment. The deep psychological impacts of tenant harassment are difficult to quantify, and courts are generally loath to award damages for mental or emotional distress without strong underlying economic damages. The ordinance's existing authorization of punitive damages renders any

[4] Oakland Municipal Code § 8.22.640.15.
[5] Richmond Municipal Code § 11.103.060(q); Concord Municipal Code § 19.50.020(4)-(5).

extraordinary damages difficult to predict and therefore discourages settlement. As such, TAHO's current remedies often make blatant harassment cheaper for landlords than following the law. Further, without mandatory attorney's fees, private attorneys will be unable to offer representation, resulting in the City Attorney sharing the entire burden for TAHO enforcement.

San Francisco, Oakland, and Richmond all require triple compensatory damages.[6] Those three jurisdictions and Concord all authorize a minimum civil penalty of $1,000 per violation, while Los Angeles County's minimum civil penalty is $2,000.[7] San Francisco, Oakland, Richmond, and Concord *all* entitle a prevailing plaintiff to reasonable attorney's fees,[8] and some authorize similar fees for landlords if a tenant brings a clearly frivolous TAHO claim.

Amendment 6: Extend the statute of limitations for TAHO claims to three years.

Proposal. Insert into LAMC § 45.45 as follows:

Statute of Limitations. The statute of limitations for an action shall be three (3) years, and all remedies under the ordinance are available for the entire statutory period.

Rationale

Currently, tenants can bring statutory claims under the TAHO ordinance within a three year period.[9] However, under California law, the recovery of penalties or mandatory triple damages are only available for one year unless an ordinance specifically states otherwise.[10]

Bringing TAHO claims will often involve significant delays. Future public enforcement would require a lengthy administrative investigative process, involving its own set of hearings and rights to appeal, all before an ultimate referral to the City Attorney. Tenants seeking private enforcement would face similar investigative delay, along with additional time necessary to retain an attorney.

Conclusion

The above recommendations stem from the lessons learned by and lived experience of tenants, organizers, and advocates in Los Angeles over the three years since TAHO's passage. The

[6] San Francisco Administrative Code § 37.10B(c)(5); Oakland Municipal Code § 8.22.670(B)(1)(a); Richmond Municipal Code § 11.103.110(c).
[7] Ibid. Concord Municipal Code § 19.50.040(b). Los Angeles County Code § 8.52.130(C)(2).
[8] San Francisco Administrative Code § 37.10B(c)(5); Oakland Municipal Code § 8.22.670(D)(2); Richmond Municipal Code § 11.103.110(c); and Concord Municipal Code § 19.50.040(d).
[9] Code Civ. Proc. sec. 338(a).
[10] Code Civ. Proc. § 340(a); *Menefee v. Ostawari*, 228 Cal. App. 3d 239, 243 (1991).

amendments also include necessary changes to TAHO's enforcement mechanisms that will simultaneously render the ordinance an effective tool for city prosecutors while also ensuring that the burden of enforcement does not fall on the City alone. Most notably, each of the Motion's proposed amendments has precedent in other jurisdictions' own tenant anti-harassment ordinances.

Sincerely,

Keep LA Housed