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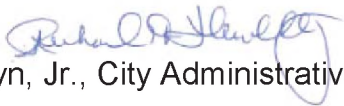
## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: November 10, 2020

CAO File No. 0220-00540-1457  
Council File No. 14-0268-S13  
Council District: Citywide

To: The Mayor  
The Council

From:  Richard H. Llewellyn, Jr., City Administrative Officer

Reference: Housing and Community Investment Department (HCID) transmittal dated May 7, 2020; Received by the City Administrative Officer on May 14, 2020; Additional Information Received through November 2, 2020

Subject: **REPORT BACK ON COSTS AND FUNDING ASSOCIATED WITH IMPLEMENTATION OF A CITYWIDE TENANT ANTI-HARASSMENT PROGRAM**

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### RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Instruct the City Attorney, in consultation with the Housing and Community Investment Department (HCID), to:
  - a. Draft an ordinance to define tenant harassment as described on pages three to four of this report, including a clarification that removal of parking is acceptable if it is done to comply with a Housing Code order, and to draft specific amendments to strengthen the Rent Stabilization Ordinance (RSO) to deter tenant harassment by amending the provisions on reductions in services and penalties and remedies for violations of the RSO as described on pages four through six of HCID's report dated May 7, 2020 (pages five through seven of HCID's report dated December 3, 2018);
  - b. Draft the ordinance(s) necessary to provide remedies for tenant harassment consistent with those available to renters in RSO units to renters in all multi-family rental units, as well as corporate owned single-family homes and condominiums; and,
  - c. Report back on the feasibility of adopting a rent-roll back provision for RSO units, when there is a finding of tenant harassment;
2. Instruct the General Manager of HCID, or designee, to report back to the Mayor and Council in 12 months on the impact of the adopted ordinance(s), and request additional funding and resources at that time, if necessary.

## SUMMARY

The Housing and Community Investment Department (HCID) requests various authorities to implement a citywide Tenant Anti-Harassment ordinance. In its transmittal dated May 7, 2020 (Report), the HCID requested the following: 1) authority for HCID to provide program oversight to implement a Tenant Anti-Harassment Program and conduct a public outreach campaign to inform City residents of the new program; 2) approval of an increase in the annual rental unit registration fee under the Rent Stabilization Ordinance (RSO) and a new annual fee for all non-RSO multi-family rentals, as well as rentals in corporate owned single-family homes and condominiums, in order to fund services related to tenant anti-harassment; 3) authority for one new position in the Office of the City Attorney to oversee the dispute mediation component and related litigation associated with a Tenant Anti-Harassment Program; 4) instructions to HCID to work with the Rent Adjustment Commission to adopt rules and regulations to implement a Tenant Anti-Harassment ordinance; and, 5) instructions to HCID to report back with recommended contracting authorities to provide personnel resources to implement the program. The HCID also requested that the Council provide instructions to the City Attorney to draft various ordinances to: a) define tenant harassment; b) provide remedies for violations of a Tenant Anti-Harassment ordinance; c) adjust the RSO fee; d) create a new fee for non-RSO units to renters in all multi-family rental units, as well as corporate owned single-family homes and condominiums; and e) establish a new fund for the receipt of a new fee for non-RSO multi-family rentals. Finally, the HCID also requested that Council instruct the City Attorney to report back on the feasibility of adopting a rent-roll back provision for RSO units when there is a finding of tenant harassment.

Subsequent to the release of their Report, HCID stated that, in light of the City's current budget constraints, they are no longer requesting funding and additional resources to implement a citywide Tenant Anti-Harassment ordinance. This Office concurs with the Department's recommendations, as amended to only include instructions for the City Attorney to 1) draft ordinances that define tenant harassment and provide remedies to RSO units, non-RSO multi-family rentals, and rentals in corporate owned single-family homes and condominiums, and 2) report back on the feasibility of adopting a rent-roll back provision for RSO units when there is a finding of tenant harassment. This Office also recommends that HCID report back on the impact of the adopted ordinance(s) and request additional funding and resources at that time, if necessary. Approval of the recommendations in this report would provide tenants with the legal grounds to pursue remedies from tenant harassment through civil court proceedings. The HCID reports that the collection of fees and penalties from the civil court proceedings will be the responsibility of tenants' attorneys.

### Changes from the May 2020 HCID Report

The HCID's proposal to increase the annual rental unit registration fee under the RSO and create a new fee for all non-RSO multi-family rentals, as well as rentals in corporate owned single-family homes and condominiums, was based on HCID requesting seven additional City staff positions, four in HCID and three in the Office of the City Attorney, to implement a Tenant Anti-Harassment Program. The May 2020 Report, however, only requested one position for the Office of the City Attorney and a report back on contracting authorities to implement the proposed program.



Subsequent to the release of HCID's Report, this Office recommended that HCID's consultant conduct an alternative fee analysis with reduced staffing and contract authorities to implement a Tenant Anti-Harassment Program. The HCID indicates that while the consultant completed an alternative analysis that resulted in a lower fee proposal, in light of the City's current budget constraints, the Department is no longer requesting additional funding or staffing resources to implement a Tenant Anti-Harassment Program.

The Department indicates that, in contrast to their description of a Tenant Anti-Harassment Program in their May 2020 Report, HCID will no longer be making referrals to the Office of the City Attorney's Dispute Resolution Program for tenant harassment. HCID notes that they may triage tenant harassment complaints through the Department's regular RSO and Housing Code complaint intake process. Once HCID staff determines that the complaint is a harassment issue, they will refer the issue to the HCID's Eviction Defense Program, or a legal aid or tenants' rights organization. Additionally, HCID states that they will include information on the Tenant Anti-Harassment ordinance(s) in the Department's outreach materials.

#### Definition of Tenant Harassment

The HCID states that at its May 8, 2019 meeting, the Housing Committee endorsed a definition of Tenant Harassment, which is included in HCID's May 2020 Report. Subsequent to the release of their Report, the HCID notes that the proposed ordinance should not classify landlords reducing or eliminating parking services in order to comply with the Housing Code, such as seismic retrofit requirements, as tenant harassment. The exemption for complying with the Housing Code is included in section (a) of HCID's revised definition of tenant harassment below.

*Tenant Harassment shall be defined as a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose (Code of Civil Procedure 527.6(b)(3)), including but not limited to:*

- a. *Reducing or eliminating housing services required by a lease, contract or law, including the elimination of parking services if provided in the tenant's lease or contract, unless necessary in order to comply with Housing Code.*
- b. *Failing to perform and timely complete necessary repairs and maintenance required by State, County or local housing, health, or safety laws or failure to follow appropriate industry standards to minimize exposure to noise, dust, lead paint, asbestos or other building materials with potentially harmful health impacts.*
- c. *Abuse of the right of access into a rental housing unit as established and limited by California Civil Code Section 1954, including entering or photographing portions of a rental housing unit that are beyond the scope of a lawful entry or inspection.*
- d. *Threatening a tenant, by word or gesture, with physical harm.*
- e. *Misrepresenting to a tenant that the tenant is required to vacate a rental housing unit or enticing a tenant to vacate a rental housing unit through an intentional misrepresentation(s) or the concealment of a material fact.*
- f. *Threatening or taking action to terminate any tenancy including service of any notice to quit or other eviction notice or bringing action to recover possession of a rental housing unit*

*based on facts which the landlord has no reasonable cause to believe to be true or upon a legal theory which is untenable under the facts known to the landlord. No landlord shall be liable under this subsection for bringing an action to recover possession unless and until the tenant has obtained a favorable termination of that action.*

- g. Threatening to or engaging in any act or omission which interferes with the tenant's right to use and enjoy the rental unit or whereby the premises are rendered unfit for human habitation and occupancy.*
- h. Refusing to acknowledge or accept receipt of lawful rent payments as set forth in the lease agreement or as established by the usual practice of the parties.*
- i. Inquiring as to the immigration or citizenship status of a tenant, prospective additional tenant, occupant or prospective additional occupant of a rental unit, or requiring any of these to make any statement, representation or certification concerning his or her immigration or citizenship status.*
- j. Disclosing or threatening to disclose to any person or entity information regarding the immigration or citizenship status of a tenant.*
- k. Threatening to report tenants to immigration authorities, whether in retaliation for engaging in legally protected activities or to influence them to vacate.*
- l. Engaging in an activity prohibited by federal, state or local housing discrimination laws.*
- m. Retaliating, threatening or interfering with tenant organizing activities, including forming or participating in tenant associations and unions.*
- n. Interfering with a tenant's right to privacy or requesting information that violates a tenant's right to privacy including, but not limited to, residence or citizenship status or social security number, except as required by law or, in the case of social security number, for the purpose of obtaining information for the qualifications for a potential tenancy.*
- o. Offering payments to a tenant to vacate without providing written notice to the tenant of his or her rights under LAMC 151.31 (Tenant Buyout Notification Program), using the form prescribed by the Housing + Community Investment Department. However, this shall not prohibit offers made in pending unlawful detainer actions.*

## Funding

The proposed Tenant Anti-Harassment ordinance will be applicable to both RSO units and non-RSO units. HCID currently collects revenue for enforcing the RSO through an annual rental unit registration fee, but does not impose a fee or collect revenue for programs applicable to non-RSO units. Fees collected to enforce the RSO are not an eligible source of funds for a City program to enforce a Tenant Anti-Harassment ordinance applicable to non-RSO units. The HCID, therefore, proposes using minimal resources to refer tenant harassment cases to the Eviction Defense Program, which is currently funded by the Community Development Block Grant, or legal aid and tenants' rights organizations. The Department reports that it will track the volume of calls related to tenant harassment. This Office recommends that HCID report back to the Mayor and Council in 12 months on the impact of the Tenant Anti-Harassment ordinance, and request additional funding and resources, if it is necessary to implement a more comprehensive City program for enforcement.

## **FISCAL IMPACT STATEMENT**

There is no impact on the General Fund. The recommendations to instruct the City Attorney to draft ordinances that define tenant harassment and penalties for violations will provide tenants legal grounds to pursue remedies against tenant harassment through civil court proceedings.

## **FINANCIAL POLICIES STATEMENT**

The recommendations in this report comply with the City's Financial Policies.

*RHL:EIC:02210067c*