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CITY ATTORNEY

REPORT NO. R 21-0129

APR 16 2021

REPORT RE:

Anti-Harassment of Tenant Draft Ordinance

Honorable Housing Committee
of the City of Los Angeles
Room 1050, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 14-0268-S13

Honorable Members:

This week, the City Council's Housing Committee considered the draft Anti-Harassment of Tenant Ordinance and proposed changes requested by Councilmembers Lee and Raman. The Committee acted by requesting the City Attorney's Office to reconcile the changes sought by both Councilmembers. As set forth in this report, reconciliation of some of the proposed changes present policy choices for the City Council. Once the City Council makes these policy decisions, our Office will quickly transmit the final draft ordinance. Note, that no change sought by either Councilmember would preclude our Office from approving the final draft ordinance as to form and legality.

Definition of "Tenant Harassment". One of Councilmember Lee's two suggested changes would alter the definition of "Tenant Harassment" in a manner that would set the bar higher for a tenant to state a cause of action against a landlord. Mr. Lee's revised definition would require a tenant to prove that a landlord engaged in a *"...knowing and willful course of conduct, where such course of conduct is directed at a specific tenant that seriously alarms or annoys the tenant, and serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person*

to suffer emotional distress, and must actually cause substantial emotional distress to the tenant. Such course of conduct includes, but is not limited to:"

Councilmember Raman proposes to change the definition of "Tenant Harassment" in a manner that would set a lower bar for a tenant to state a cause of action against a landlord. Councilmember Raman's revised definition would only require a tenant to show that a landlord engaged in a "...*knowing and willful commission of any of the following acts:*"

Landlord Opportunity to Remedy a Violation. The original draft of the ordinance requires a tenant, before filing a lawsuit against the landlord, to provide written notice to the landlord and allow the landlord a reasonable period of time to remedy the violation but only for repair and maintenance issues. The other change sought by Councilmember Lee would expand the scope of things a landlord has an opportunity to cure from repair and maintenance issues to any violation that a landlord has engaged in under the ordinance. Councilmember Raman's proposed change would maintain the original draft's opportunity to remedy only for repair or maintenance violations and provide that the notice need not be in writing.

Other Changes Recommended by Councilmember Raman. Councilmember Raman made a number of recommended changes to the pending draft ordinance, which are detailed in her written submission to the Council File on April 9, 2021. Two of Councilmember Raman's suggested changes overlap with the two changes put forth by Councilmember Lee, as discussed above. The other changes sought by Councilmember Raman include the following: 1. protecting tenants from coercive efforts to vacate with offers of payment; 2. prohibiting the disclosure or threat of disclosure of tenant information to a government entity where the tenant is otherwise engaged in legally protected activity; 3. prohibition of repeated significant acts or omissions that substantially interfere or disturb the tenant that cause or are likely to cause or are committed with the objective to cause a tenant to vacate; 4. allowing any person or organization who will fairly and adequately represent the interests of an aggrieved tenant to file a lawsuit; 5. changing the word "may" to "shall" in Section 45.35(B), which addresses the award of damages, attorney fees, and penalties to a tenant who prevails in a lawsuit against a landlord brought pursuant to this ordinance; 6. authorizing a court to enjoin those who violate the ordinance; 7. providing that any RSO rental unit that is vacated because of violation of the ordinance must be rented at the lawful rent in effect at the time of the most recent termination of tenancy; and 8. providing that any non-RSO rental unit that is vacated because the landlord violated the ordinance must be rented at the lawful rent in effect at the time of the most recent termination of tenancy.

Once the City Council makes its policy decision as to which, if any, of the changes sought by Councilmember Lee or Councilmember Raman should be included in the ordinance, our Office will quickly transmit a final draft ordinance. A member of our Office will be available when the City Council considers this matter.

Sincerely,

MICHAEL N. FEUER, City Attorney

By


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DM:pj