

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE (BMC) SECTION 13.77.055 TO REQUIRE RELOCATION ALLOWANCE PAYMENTS TO ALL TENANTS EVICTED PURSUANT TO CALIFORNIA'S ELLIS ACT

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 13.77.055 is amended to read as follows:

**Section 13.77.055 Financial mitigation of adverse impact on displaced persons.**

A. The tenants of any residential rental unit who are required to move as a result of the owner's withdrawal of the accommodation from rent or lease shall be entitled to a relocation payment in the sum of \$4500 from the owner. The payment shall be divided equally among all tenants occupying the rental unit at the time of service on the tenants of the notice of intent to withdraw the unit from rent or lease. Only those persons who have a written or oral agreement with the owner for possession of the rental unit or who have paid rent to the owner shall be deemed tenants for purposes of this Section 13.77.055.

B. At the time of filing the notice of intent specified in Section 13.77.050A.3, the owner shall deposit the relocation payments specified in subparagraph A above into escrow with the City. The City or its designated agent shall distribute these funds to the tenants upon request.

C. Low-income, elderly or disabled tenants of a rental unit that is withdrawn from the residential rental market shall be entitled to an additional relocation payment of \$2500 from the owner.

1. An additional relocation payment based on low-income status shall be divided equally among all tenants occupying the rental unit at the time of service on the tenants of the notice of intent to withdraw the unit from rent or lease.

2. An additional relocation payment based on elderly or disabled status shall be divided equally among the qualifying elderly and/or disabled tenants occupying the unit at the time of service on the tenants of the notice of the intent to withdraw the unit from rent or lease.

3. If a household qualifies for an additional relocation payment because the household is both low-income and is occupied by elderly or disabled tenants, the payment shall be divided equally among all tenants occupying the rental unit at the time of service on the tenants of the notice of intent to withdraw the unit from rent or lease.

D. In order to claim entitlement to the additional \$2500 relocation payment, a tenant must mail the postcards provided under Section 13.77.050A.1 within 30 days of the date the notice required by that section is served. The owner shall deposit the additional relocation payment in escrow in trust for any tenants who claim to qualify for relocation assistance within ten days after such postcard is mailed. Thereafter, the City or its designated agent shall distribute amounts held in escrow as follows:

1. If no written challenge is made to the tenant's claim of entitlement to additional relocation assistance within ten days after the postcard provided under Section 13.77.050A.1 is mailed, the City shall release the relocation assistance to the tenant upon request.

2. If the City receives conflicting information or assertions which indicate that there is a dispute or uncertainty concerning the tenant's qualification for relocation assistance the City shall continue to retain the disputed relocation assistance funds in escrow. The City then shall release

the relocation assistance funds to either the tenant or the owner upon receipt of either a written agreement by both the owner and the affected tenant or an order of a court of competent jurisdiction.

E. The owner may rescind the notice of intent to withdraw the accommodation from rent or lease and the notice of termination of tenancy prior to any release of relocation payment to the qualifying tenants by serving written notice stating such rescission on the tenants. In such instance, the relocation payment shall be released to the owner. Subsequent to the release of any relocation payment to a qualifying tenant, the owner may rescind the notice of intent to withdraw the accommodation from rent or lease and the notice of termination of tenancy only upon the written agreement of the tenants to remain in possession of the rental unit. If the qualifying tenants remain in possession of the rental units after service of an owner's written notice of rescission of the eviction, the tenants shall provide an accounting to the owner of the amount of the relocation payment expended for moving costs, return to the owner that portion of the relocation payment not expended for moving costs, and assign to the owner all rights to recover the amount of relocation payment paid to third parties.

F. Where an owner has served a notice of intent to withdraw an accommodation from rent or lease on a tenant prior to January 1, 2005 and withdrawal of the accommodation has not been completed, the owner shall give notice as specified in Section 13.77.050A.1 to all tenants, including any tenants who have already vacated their rental units, that elderly and disabled tenants qualify for relocation assistance. The owner shall deposit the full relocation payment in escrow in trust for the elderly and disabled tenants who return the postcards provided under Section 13.77.050A.1 within 30 days of the date that the above required notice was served or mailed. Said deposit in escrow for the qualifying tenants shall be made within ten days of the date the postcards provided pursuant to Section 13.77.050A.1 are mailed. The owner shall also increase the amount of the relocation assistance deposited into escrow for each qualified low income tenant to the amount specified in Section 13.77.055C.

G. Failure of the owner to make any payment specified herein shall be a defense to any action to recover possession of a rental unit based upon the owner's intent to withdraw the accommodation from rent or lease. In addition, if tenants of a rental unit who qualify for relocation assistance have vacated the unit as a result of a notice of intent to withdraw the accommodation from rent or lease, and the owner fails to make any payment specified herein, the owner shall be liable to the tenants for three times the amount of the payment as well as reasonable attorney fees.

(Ord. 6827-NS § 2 (part), 2004: Ord. 6783-NS § 1 (part), 2003: Ord. 6646-NS § 2, 2001: Ord. 6237-NS § 1 (part), 1994: Ord. 6181-NS § 1 (part), 1993: Ord. 5751-NS § 1 (part), 1986)

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on November 15, 2005, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Councilmembers Anderson, Capitelli, Maio, Moore, Olds, Spring, Worthington, and Mayor Bates.

Noes: None.

Abstain: Councilmember Wozniak.

Absent: None.