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County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

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SUSAN A. MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

- June 1, 2000

AGENDA: June 13, 2000

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

TENANT RELOCATION ORDINANCE AMENDMENTS

Dear Members of the Board:

BACKGROUND

On October 19, 1999, your Board considered a report by Supervisor Campos concerning tenant relocation issues and a proposed emergency relocation protocol. These issues were brought before your Board in connection with the fire and relocation issues associated with the Landis property, where a number of individuals were displaced as a result of a fire.

In response to these issues, your Board directed staff to 1) determine whether the County's Relocation Ordinance can be modified to make the relocation payments more accessible; 2) establish a protocol with the Red Cross to provide for last resort emergency relocation assistance to income eligible tenants displaced by emergencies such as a fire; 3) develop informational material to be distributed to tenants faced with displacement; and 4) explore modifications to the County Last Months Rent and Security Deposit program to improve overall program effectiveness.

On March 9, 2000, your Board took action to institute a variety of programs to address these issues, and conceptually adopted proposed changes to the relocation ordinance. Prior to returning to your Board for the ordinance's second reading, your Board requested staff consult with Realtors, Legal Aid, and other interested parties to solicit additional input on the proposed ordinance changes. This report includes a series of modifications to the ordinance amendments presented to your Board on March 9th.

REVIEW OF PROPOSED ORDINANCE AMENDMENTS

Proposed amendments to the County's Relocation Ordinance considered by your Board on March 9th were designed to:

- expand the applicability of the ordinance to cover tenants displaced by situations such as the Landis fire;
- facilitate payment of relocation payments to eligible tenants by instituting treble damages for landlords who fail to provide relocation payments in a timely manner; and
- enhance tenant notification requirements by requiring landlords to inform tenants of their potential eligibility for relocation assistance;

Since the March 21st Board meeting, staff has participated in two meetings with Realtors - one with the Santa Cruz County Board of Realtors, where Legal Aid was also present, and the other with the Watsonville Board of Realtors. In addition, the proposed ordinance amendments were discussed by the County's Housing Advisory Committee during their May 3rd meeting.

These discussions have been very fruitful and have helped correct some common mis-perceptions about the implications of the amendments and helped clarify the County's intent in moving forward on this measure.

Based on these discussions, key issues and concerns have been repeatedly raised with general agreement about how to best proceed. These key issues and additional proposed amendments are discussed below:

1. A tenant who is evicted for other reasons should not be able to collect relocation benefits.

All parties believed that property owners should not be required to provide relocation assistance to a tenant who is being evicted for reasons which are independent of and which occur prior to any code enforcement action. Section 8.45040 C has been amended to address this issue.

2. The proposed ordinance did not clarify under what circumstances property owners, rather than the County, would be responsible for providing tenants with notice about the Relocation Ordinance.

The Ordinance has been amended to specify that the property owner is only responsible for providing notice to tenants if they are displacing a tenant and the County is required to notify tenants if the County posts a notice to vacate. Section 8.45030 A and Section 8.45040 D have been amended to address this issue.

3. The proposed ordinance's provision to extend relocation benefits to any

displaced tenants who lived in an illegal unit that was destroyed by fire or other unforeseen circumstances was too broad.

The ordinance has been amended to apply to tenants who are displaced from an illegal unit due to **fire** or other unforeseen circumstances where pre-existing building or fire code violations contributed to the level of damage which required the tenant to vacate the premises, Section 8.45.040 B addresses this issue.

4. Treble Damages. The proposed treble damages provision was considered to be punitive and would discourage property owners from legitimately contesting the tenant's eligibility for relocation benefits.

All parties agreed that the intent of the treble damages provision was not to be punitive but to target property owners renting out unsafe or hazardous buildings, such as the Landis property. To this end, it is recommended that the treble damages feature only apply to those property owners whose tenants are required to vacate hazardous or unsafe buildings and who did not have a bona fide legal basis for disputing the obligation to pay relocation assistance to the tenants. Section 8.45.060 B has been amended to address this concern.

5. Civil Penalties. The current proposal includes a provision for civil and criminal penalties.

This existing provision was seen as overly punitive and it is recommended that this provision be deleted. Section 8.45.060 has been amended to address this concern.

To facilitate your Board's your review of the proposed amendments, staff has prepared a chart (Attachment 1) which clearly identifies the areas in the current ordinance that will be effected and those that will not be effected by the proposed amendments. A marked copy of the ordinance amendments is included as Attachment 2, and the The Housing Advisory Commission has submitted a letter of support to your Board (Attachment 3)

REALTORS' CONCERNS ABOUT PROPOSED AMENDMENTS

While it must be acknowledged that some Realtors take exception to the ordinance itself, including some of the proposed amendments, the latest series of amendments are nonetheless designed to respond to many of the Realtors concerns.

It is worth noting the there are some questions raised by individual Realtors that have not been incorporated into the proposed ordinance amendments. These concerns and

a brief discussion of each, follows:

- Treble Damages vs. Actual Damages: Some Realtors indicated that the treble damages provision was punitive and could be applied too broadly; as an alternative, it was suggested that the ordinance include a provision for tenants to collect actual damages.

*Discussion: Because the treble damages provision only applies to situations where a unit is unsafe or hazardous, the Realtors initial concern that the treble damages was too broad has been **partly** addressed. Also, according to County Counsel, the County cannot give displaced tenants the right to receive legal fees because the tight to **legal** fees is set by State law.*

- Tenants' Use of Relocation funds: There were a number of comments concerning the possibility that tenants would not use relocation funds to cover their housing costs and therefore the ordinance should require the relocation assistance be used to pay their actual housing costs.

*Discussion: This approach would place a burden of proof on a tenant to demonstrate that the relocation funds are actually being spent on housing costs. Requiring proof that the relocation assistance was or will be used to acquire replacement housing or that the displaced tenant actually acquired replacement housing prior to receiving funds will add another **barrier** to displaced tenants receiving the benefit. Also, because questions would arise about what constitutes 'proof', an administrative structure would be needed to implement this program. The administration **and** oversight required would be disproportionate to the need for such a program.*

- County Administered Programs: There was some suggestion that either 1) the County provide the relocation funding and then seek to recover these funds from the landlord, or 2) in the event that treble damages are imposed, that funds paid by the landlord in excess of the three months payment and the cost of legal fees be deposited into an account to be administered by the County to provide housing assistance to eligible households.

*Discussion: Either one of these County administered programs would also require a high level of program administration and oversight. In evaluating the suggestion that the County initially provide the tenant with the relocation benefit and then pursue a claim against the landlord, there **are a** number of problems which **arise**. This approach, in effect, would **shift** the current responsibility to*

provide relocation benefits from the landlord to the County. In doing so, the likelihood of the County prevailing in court against the landlord even in the most compelling cases would at best be cumbersome and at worst, risky, since the tenant would not have the same incentive to remain involved in the case. Thus, in addition to the County subsidizing the landlord by providing the initial relocation payments that may not be recovered, the County would also be subject to additional legal expenses to recover costs from the landlord, which also may or may not be recoverable.

The suggestion that a County administered program be established to utilize funds obtained through treble damage awards has also been evaluated. Because the treble damages feature of the ordinance has been scaled back to only apply to situations where the unit is being vacated due to an unsafe or hazardous condition, it is expected that the treble damages provision will be utilized much less frequently than originally anticipated. Based on the anticipated limited amount of cases, a program of this type is not recommended at this time.

SUMMARY/CONCLUSION

The proposed changes to the relocation ordinance respond to the concerns expressed by the Board concerning facilitating access to relocation benefits which are currently required by the County's Relocation Ordinance. In addition, by limiting the potential for treble damages to property owners whose tenants must vacate their units due to hazardous or unsafe conditions, the ordinance provides an incentive to those property owners responsible for renting properties with the most egregious violations - such as the Landis property - to either remove these units from the market or make the necessary repairs and changes to bring them into legal conformance.


It is therefore RECOMMENDED that your Board take the following action:

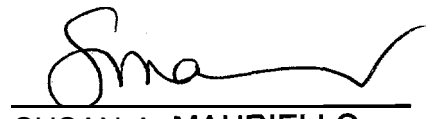
1. Approve in concept the attached amendments to the County Relocation Assistance Ordinance, County Code Section 8.45 (Attachment 1); and
2. Place the ordinance on your next agenda for final adoption.

Board of Supervisors
Relocation Ordinance Amendments

Agenda: June 13, 2000
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Truly Yours,


ALVIN JAMES
Planning Director


SUSAN A. MAURIELLO
County Administrative Officer

cc: City of Watsonville
Santa Cruz Board of Realtors
Watsonville Board of Realtors
Legal Aid of the Central Coast
Watsonville Housing Safety Committee, attn: Richard Anderson

ATTACHMENT 1

**SUMMARY OF EXISTING ORDINANCE vs.
RELOCATION ORDINANCE AMENDMENTS**

RELOCATION ORDINANCE AMENDMENTS: EXISTING ORDINANCE vs. PROPOSED AMENDMENTS		
Issue	Existing Ordinance	Proposed Ordinance
Who is eligible for Relocation Assistance?	Tenants required to vacate any structure or space rented for residential purposes due to (a) unsafe or hazardous living conditions or (b) illegal use of the structure for residential purposes.	No Change
What is the amount of Relocation Assistance Payments?	Three months rent; the higher of the actual rent or the HUD fair market rent for a unit of comparable size.	No Change
Can a tenant who is evicted for other reasons collect relocation benefits?	Existing Ordinance does not specifically address this issue	Property owners are not required to provide relocation assistance to a tenant who is being evicted for reasons which are independent of, and which occur prior to, any code enforcement actions.
When must the payments be made?	Payments to tenants within one week of any notice of eviction or vacation of premises	No Change
Can displaced tenant reoccupy space or unit if it becomes legalized?	YES. A displaced tenant has the right of first refusal to reoccupy a space or unit once the space or unit has been legalized.	No Change
Can rent be raised by property owner while required repairs are being made?	NO. Property owners cannot increase rents during the time that repairs are being made pursuant to any order requiring said repairs	No Change
How are tenants made aware of the Relocation Assistance Ordinance?	The current ordinance does not require tenants be notified of the availability of the Relocation Ordinance.	Prior to issuing tenant(s) notice of eviction or other notice to vacate, the owner shall provide written notice in English and Spanish to tenant of potential availability of assistance. Owner shall not be entitled to possession of the dwelling or space if they have failed to provide such notice or pay relocation assistance when required by the Ordinance. County required to notify tenants if the County posts a notice to vacate.
Are tenants who are in default of their rent or who created substandard conditions eligible for relocation assistance?	NO.	No Change
If tenant lives in an illegal unit, and the unit burns down, is the tenant eligible for relocation assistance?	NO. Any tenant displaced if unit becomes unsafe or hazardous due to fire, flood, earthquake, or other event that is beyond the control of the property owner is not eligible for relocation assistance.	A tenant is eligible for relocation assistance if there were pre-existing building or fire code violations which contributed to the level of damage which required the tenant to vacate the premises.
Are there penalties for failure to comply with the ordinance?	YES. Criminal and civil penalties may be levied	This provision will be deleted.
How can the tenants enforce the ordinance?	Tenant or tenant association may file civil legal action	Existing provision regarding a tenant or tenant association filing for civil action. Treble damages to be paid to tenant displaced from hazardous or dangerous unit if property owner refuses to pay relocation assistance, and the tenant files civil legal action to collect benefits and the Court finds that the owner did not have a bona fide legal basis for disputing the obligation to pay relocation assistance.

ATTACHMENT 2

RELOCATION ORDINANCE AMENDMENT - MARKED COPY

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 8.45
TO THE SANTA CRUZ COUNTY CODE RELATING TO
RELOCATION ASSISTANCE REQUIREMENTS FOR
DISPLACED TENANTS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section 8.45.020 of the County Code is hereby amended to read as follows:

8.45.020 Definitions

For purposes of this chapter, the following words and phrases, whenever used, shall be construed as defined in this section:

A. “Dwelling” means any structure which serves as the place of permanent or customary and usable abode of a person, including, but not limited to, a single-family dwelling, multi-family dwelling, a unit of a condominium or cooperative housing project, a mobilehome as herein defined, or any other residential **unit** which is considered to be real property under state law. A structure need not be decent, safe, or sanitary to be considered a dwelling.

~~B. “Illegal use” means the use of a structure or space for a dwelling in violation of zoning regulations.~~

~~BC.~~ Mobilehome means a structure designed for human habitation meeting one of the following definitions:

1. A manufactured home as defined in Section 18007 of the Health and Safety Code; or
2. A mobilehome, as defined in Section 18008 of the Health and Safety Code; or
3. A recreational vehicle as defined in Section 18010 of the Health and Safety Code, that has occupied a site for nine or more continuous months in a mobilehome park, a recreational vehicle park, or a travel trailer park, under a rental agreement with a term of one or longer.

~~CD.~~ “Mobilehome space” means an area occupied as a space for a mobilehome in a park.

~~DE~~ “Right of first refusal” means the right of a tenant to reoccupy a dwelling on the site formerly occupied by said tenant, once the dwelling is repaired and becomes habitable, or once housing is redeveloped on the site. A mobilehome owner vacating a mobilehome space shall have the right to reoccupy the same or a comparable space within the same park, once the site has been restored.

F. “Tenant” means a person who has occupied a structure or mobilehome space for a dwelling for a period of 30 days or more under a written or verbal agreement with the owner by which the tenant has paid rent or provided other valuable consideration to the owner in exchange for the right of occupancy.

SECTION II

Subsection A. of Section 8.45.030 is hereby amended to read as follows:

A. **Relocation Assistance Due and Notice to Tenant of Entitlement** The owner of a dwelling or mobilehome park shall provide directly to the tenant or tenants relocation assistance pursuant to subdivisions B. and C. of this section, within one week of any notice of eviction or other order requiring a tenant or tenants to vacate any dwelling or mobilehome space, rented for residential purposes due to (a) **unsafe** or hazardous living conditions (regardless of the date such use commenced), or (b) **an due to** illegal use of the structure or the mobilehome space for residential purposes. **On or before the date the owner gives tenant(s) notice of eviction or other notice to vacate a dwelling or mobilehome space subject to this chapter, the owner shall provide written notice in English and Spanish advising the tenant of the right to relocation assistance and the right of first refusal specified in subdivision C. of this section. Except as otherwise provided by Section 8.45.040, the owner shall not be entitled to possession of the dwelling or mobilehome space pursuant to a notice of eviction or other notice to vacate if the owner has failed to provide the notice of the right to relocation assistance or fails to tender the relocation assistance required by this chapter for the tenant to vacate the dwelling or mobilehome space.**

SECTION III

Section 8.45.040 is hereby amended to read as follows:

8.45.040 Exceptions.

A. Any tenant evicted or required to vacate as a result of unsafe or hazardous living conditions or illegal use, **as** defined in Section 8.45.030(A), who is then in default of rent, or who refuses to vacate or who has caused or substantially contributed to condition(s) giving rise to the abatement, shall not be entitled to receive relocation

assistance ~~from~~ the property owner. The knowledge of a tenant of the illegal nature of a dwelling or mobilehome space offered for rent by a landlord for residential use shall not by itself disqualify a tenant ~~from~~ eligibility for the relocation assistance provided by this chapter. A tenant **lawfully** withholding rent pursuant to California Civil Code Section 1942 or pursuant to other statutory or common law to repair conditions rendering the rented dwelling untenable shall not be considered to be in default of rent, and shall be eligible for the relocation assistance provided by this chapter.

B. Property owners are not required to provide relocation assistance to any tenant evicted or required to vacate a dwelling or mobilehome space that becomes unsafe or hazardous due to fire, flood, earthquake, or other event that is beyond the control of the property owner provided that such event causes the tenant to be evicted or requires the tenant to vacate the dwelling or mobilehome space within thirty days **after such event**, and provided that pre-existing violations of building or fire codes by the property owner were not a major factor contributing to the event or contributing to the level of damage which requires the tenant to vacate the dwelling or mobilehome space.

C. Property owners are not required to provide relocation assistance to a tenant who is being evicted for reasons which are independent of, and which occur prior to, any actions taken by government enforcement agencies to abate either unsafe or hazardous conditions or an illegal use of the structure or mobilehome space.

D. Whenever the County posts a notice to vacate, the County rather than the property owner shall be responsible for giving notice to the tenant of the right to relocation assistance.

SECTION III

Section 8.45.060 is hereby amended to read as follows:

8.45.060 ~~Violation and penalty.~~ **Enforcement by tenant or tenant's association.**

~~_____ A. _____ Any person knowingly and wilfully violating or causing or permitting the violation of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished in accordance with Section 1.12.030 of this code.~~

~~_____ B. _____ Except as provided in subsection A of this section, any person violating or causing or permitting the violation of this chapter shall be deemed guilty of an infraction, and shall be punished by a fine in accordance with Section 1.12.040 of this code, provided, however, that any offense which would otherwise be an infraction shall be a misdemeanor if a defendant has been convicted of three or more violations of this chapter~~

~~within the twelve month period preceding the commission of the offense in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged.~~

~~C. The remedies and penalties provided for in this chapter shall be in addition to any other available remedies and penalties provided for by this code or other law.~~

A. The tenant or a tenant association or organization of which the tenant is a member may file a civil action to enforce the relocation assistance provisions of this chapter.

B. In cases where (1) a tenant is evicted or required to vacate as a result of unsafe or hazardous living conditions, (2) the owner of a dwelling or mobilehome park fails or refuses to pay relocation assistance pursuant to this chapter, and (3) the tenant or a tenant association or organization of which the tenant is a member is required to file a civil legal action to enforce the payment of relocation assistance, the owner of the dwelling or mobilehome park shall be liable for treble the amount of the relocation assistance otherwise provided by this chapter if the Court finds that the owner did not have a bona fide legal basis for disputing the obligation to pay relocation assistance.

SECTION IV

Section 8.45.070 is hereby repealed.

~~8.45.070 Enforcement by tenant or tenant's association.~~

~~The tenant or a tenant association or organization of which the tenant is a member may file a civil legal action to enforce the relocation assistance provisions of this chapter.~~

SECTION V

This ordinance shall take effect on the 31st day after the date of final passage.

PASSED AND ADOPTED this _____ day of _____, 2000, by the Board of Supervisors for the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

MARDI WORMHOUDT
Chair of the Board of Supervisors

Attest: _____
Clerk of the Board

Approved as to Form:



DWIGHT L. HERR, County Counsel

DISTRIBUTION: Planning Department
County Administrative Office
County Counsel

ATTACHMENT 3

LETTER FROM THE HOUSING ADVISORY COMMISSION



County of Santa Cruz

HOUSING ADVISORY COMMISSION

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060-4000
(831) 454-3146 FAX: (831) 454-2131 TDD: (831) 454-2123

May 11, 2000

Chairperson Mardi Wormhoudt
Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

re: Amendment of Chapter 8.45, Relocation Assistance for Displaced Tenants

Dear Chairperson Wormhoudt and Members of the Board:

At it's May 3, 2000 meeting, the Housing Advisory Commission reviewed the proposed amendments to the County's Relocation Assistance Ordinance (Chapter 8.45 of the County Code) that your Board approved in concept at your March 21, 2000 meeting and the additional proposed amendments that were prepared by County Counsel on April 24, 2000.

The members of the Housing Advisory Commission unanimously agreed that the proposed amendments would provide valuable and equitable benefits for tenants who are displaced from their homes as a result of code enforcement action and other specified events. However, since it is difficult to foresee all of the impacts of the changes to the ordinance, we encourage your board to refer the ordinance back to the Housing Advisory Commission to re-evaluate in one year.

We encourage your Board to adopt the proposed amendments to the Relocation Assistance Ordinance as prepared by County Counsel on April 24, 2000 with provisions for a one year review of the changes. We also encourage your Board to give careful consideration to the comments of tenant advocates when adopting the ordinance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Carl Sprague", is written over a horizontal line.

Carl Sprague
Chairperson