



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** April 16, 2019

**TO:** Mayor and Councilmembers

**FROM:** City Attorney's Office  
Housing & Human Services Division, Community Development  
Department

**SUBJECT:** Proposed Residential Tenant Protection Ordinances

**RECOMMENDATION:** That Council consider the Ordinances and recommendations submitted by the Ordinance Committee, including:

- A. Introduce and subsequently adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Amending Title 26 of the Santa Barbara Municipal Code by Adding Chapter 26.40 to Require One-Year Lease Offers to Residential Tenants;
- B. Introduce and subsequently adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Amending Title 26 of the Santa Barbara Municipal Code by Adding Chapter 26.50 to Require Relocation Assistance to Tenants Impacted by Mass No-Cause Evictions or Other No-Cause Terminations of Residential Tenancies; and
- C. Consider bringing "Just Cause" eviction remedies back to the City Council for further consideration.

### **EXECUTIVE SUMMARY:**

The City's residential housing market is heavily imbalanced as a result of supply, demand, and market conditions. This imbalance works to the disadvantage of tenants and the community by destabilizing the living conditions of more than half of Santa Barbara's residents. The City's Housing Element strongly supports the conservation and improvement of non-subsidized rental housing.

The proposed Mandatory Lease Ordinance requires landlords to offer tenants one-year leases in most housing circumstances. It should stabilize the rental housing market by

assuring most tenants the opportunity to obtain one-year leases, thereby avoiding the risk of “no-cause” eviction during that period.

The proposed Mass No-Cause Eviction Ordinance will also stabilize the rental housing market by mitigating the heavy financial impacts upon tenants who are forced to relocate involuntarily, and through no fault of their own. These funds will facilitate the often prohibitively expensive costs associated with relocation, like moving expenses, security deposits and increased rental rates. It requires landlords to compensate eligible households (up to 120% AMI) for the costs of relocation that they can be expected to incur when a landlord effects a mass no-cause eviction. As defined by the Ordinance Committee, “mass no-cause eviction” occurs when the tenancies of more than 20% of the units in a structure or on a lot containing at least 7 dwelling units are terminated without cause during any period of 12 or fewer months.

Finally, after hearing public and interested party testimony during three meetings, a majority of the Ordinance Committee voted to bring “just cause” eviction remedies back to the City Council for further consideration.

#### **DISCUSSION:**

During its December 14, 2016, Workload Priorities Session, Council directed the City Attorney to report back on potential strategies for new residential tenant protection measures.

On March 21, 2017 (Potential Strategies For Residential Tenant Protection Measures), the City Attorney reported on several such measures, including:

- Enhanced mediation
- Mandatory leases
- Multiple-family rental unit safety inspections
- “Just cause” eviction laws, and
- Rent control.<sup>1</sup>

The Council directed staff to return with recommendations to enhance the Rental Housing Mediation Program. In a separate motion, staff was directed to bring an item back to Council to form a task force of landlords and tenants to review mandatory leases, safety inspections, and a just cause eviction ordinance. Rent control was not included in the motion.

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<sup>1</sup> March 21, 2017 CAR (Potential Strategies For Residential Tenant Protection Measures), Attachment 1.

On June 27, 2017, staff returned to Council with a recommendation to form a “Tenant Protection Task Force,” facilitated by John Jostes, and consisting of one representative from each of the following organizations:

- California Apartment Association
- Central Coast Alliance for a Sustainable Economy (CAUSE)
- Housing Authority of the City of Santa Barbara
- Restorative Community Network
- Santa Barbara Association of Realtors
- Santa Barbara Rental Property Association
- An at-large landlord representative, and
- An at-large tenant representative.<sup>2</sup>

By unanimous motion (M/Hotchkiss, S/Rowse), Council changed the name to “Tenant/Landlord Task Force” in order to set a more neutral and less political tone for the process. Council also decided to let each participating organization nominate its own representatives to the Task Force. Finally, Council Members Dominguez and Hart were appointed as “observers.”<sup>3</sup>

On January 30, 2018, staff reported back on the Tenant/Landlord Task Force recommendations. After considerable public debate, the City Council referred two Task Force recommendations to the Ordinance Committee for further development:

- Joint Protection and Accountability Initiative (Mandatory Lease Offers)
- Tenant Displacement and Relocation Assistance for Mass Evictions.<sup>4</sup>

Council also directed staff to work on enhanced tenant and landlord education enhancements, which have since included:

- Redesign of the Landlord/Tenant Rights section of the Rental Housing Mediation Program website;
- Targeted informational mailings to landlords utilizing the City’s business license mailing list; and
- Co-sponsorship of Housing Santa Barbara Day, including a housing resource guide.

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<sup>2</sup> June 27, 2017 CAR (Tenant Protection Task Force), Attachment 2.

<sup>3</sup> June 27, 2017 Minutes, Attachment 3.

<sup>4</sup> January 30, 2018 CAR (Tenant/Landlord Task Force Recommendations) & Minutes, Attachments 4 & 5.

The Task Force offered relatively detailed analyses for its recommendations, as follows:

“Just Cause Eviction

The Task Force could not agree on a just cause eviction ordinance; however, a majority agreed to the establishment of a joint protection and accountability initiative that would require the landlord to offer tenants the use of renewable leases with specified terms of at least one year (less if the landlord demonstrates that the property is not available for a full year). If the landlord chooses not to renew the lease, the tenant could request a mandatory, non-binding, one-time conciliation meeting.”

“Tenant Displacement and Relocation Assistance-Mass Evictions

Develop and adopt an ordinance that requires monetary relocation assistance to multi-unit tenants who face eviction in certain situations. The ordinance would be applied on a per-unit basis in R-3 and R-4 zones but not in single family or R-2 zones, specifically:

- 1-5 units: No displacement assistance.
- 6-14 units: No monetary assistance, but notice that non-binding, first meeting required, mediation is required.
- 15 units +: 4 times the median advertised rental rate or \$5,000, whichever is greater.

Increase 30-day and 60-day notification requirements to 90-day notification in cases where more than 10 tenants are displaced.”

On October 23, 2018, the Ordinance Committee considered drafts of both the Mandatory Lease and Tenant Displacement/Mass Eviction Ordinances.<sup>5</sup> Deliberations continued on February 26 and March 5, 2019.<sup>6</sup>

**Mandatory Residential Lease Offers**

The proposed ordinance relating to mandatory lease offers is straightforward. Landlords must offer residential tenants written one-year leases except in specified circumstances. The ordinance does not apply to:

- Currently leased units until they come up for renewal

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<sup>5</sup> October 23, 2018 CAR (Proposed Residential Tenant Protection Ordinances), Attachment 6.

<sup>6</sup> February 26 and March 5, 2019 CARs (Proposed Residential Tenant Protection Ordinances), Attachments 7 & 8.

- Currently rented units (no lease) for 60 days after the effective date of the ordinance, at which point leases must be offered to rental tenants
- An owner-occupied unit that is rented for less than one year
- A rental unit occupied by a tenant who subleases to another tenant for less than a year
- A rental unit where tenancy is a condition of or consideration for employment.

Moreover, the term “rental unit” is defined to exclude single-family homes, hotel rooms, condominium units, owner-shared units, certain institutional/hospital units, subsidized units, and units owned by a governmental agency.

The ordinance does not restrict rental rates, nor does it prevent a landlord from negotiating multiple rent increases in the one-year lease. The ordinance protects the public health, safety and general welfare by stabilizing the rental market so that tenants need not face unjust or no-cause evictions during what might otherwise be a potentially less stable month-to-month tenancy. A one-year limitation on a landlord’s ability to terminate a tenancy is a relatively minor restriction on the landlord’s financial interests.

The proposed ordinance does not compel a tenant to accept an offer of a lease, and for convenient recordkeeping it allows the lease documents to serve as evidence that the lease offer was made. As suggested by the Task Force, when a lease renewal is not offered, the landlord must offer the tenant a one-time, non-binding conciliation meeting.

Finally, both of the proposed ordinances include significant remedies for violations that are intended to facilitate private enforcement of the ordinance. Thus, tenants are directly empowered to use the ordinance in litigation or in defense of an unlawful eviction. While not directly discussed by the Task Force, the City Attorney strongly advises empowering tenants with the right to bring a private lawsuit against non-compliant landlords, as well as the right to assert non-compliance as a defense to a landlord’s eviction lawsuit. This advice is premised on the lack of City resources to assure full enforcement of these important resources. Santa Barbara took a similar tack with its View Preservation Ordinance.

### **Ordinance Committee Deliberations on Mandatory Residential Lease Offers**

During the Ordinance Committee’s deliberations, the City Attorney met with interested parties to discuss written comments that had been submitted. One property owner, noting the powerful tenant remedies for landlord violations, asked for a one-year limitation period during which a landlord’s violation of the ordinance can be asserted by the tenant as a defense to an action to recover possession. As a result, the Ordinance Committee considered and unanimously

approved a request to limit the time period during which a landlord's violation can be used under proposed section 26.40.020 A. In addition, the proposed ordinance was modified to require the city attorney to prepare forms for landlords and tenants to use. These forms are to be posted to the City's website.

### **Relocation Assistance for Mass No-Cause Evictions**

The second proposed ordinance provides relocation assistance to tenants who are evicted *en masse* and *without cause*. There are several definitional issues that the Ordinance Committee needed to address.

The Tenant/Landlord Task Force recommended tenant displacement and relocation assistance for mass evictions. The recommendation specified that monetary assistance be provided to displaced tenants residing in properties with 15 or more units; however it did not specify the event(s) that would trigger the assistance. The Task Force discussed a quantitative trigger comprising a certain number of units receiving eviction notices within a certain number of months. These numbers were left open in the draft ordinance to be discussed by the Ordinance Committee.<sup>7</sup> The Task Force also recommended that the tenant displacement ordinance increase the 30-day/60-day notification requirements to a 90-day notification in cases where more than 10 tenant households are displaced. This provision is not included in the draft ordinance because California Civil Code prohibits a city from regulating the timeframes for notices related to residential tenancies.

As proposed to the Ordinance Committee, the mass eviction ordinance applied only to structures or lots containing 6 or more residential dwelling units in the R-3 Limited Multiple-Family and R-4 Hotel-Motel-Multiple Residence zones (and their Title 30 successors, the R-M Residential Multi-Unit and R-MH Residential Multi-Unit and Hotel zones). The Task Force recommended no compensation for displaced tenants in structures or lots with fewer than 15 units. Compensation for mass evictions from structures or lots containing 15-units or more would be 4 times the median advertised rental rate for units with a comparable number of bedrooms or \$5000, whichever is greater. Low and moderate income households, the elderly, disabled and minor tenants would receive an additional \$3000. Staff believes that in almost all cases the greater compensation would be 4 times the median advertised rental rate. While no compensation was to be paid, under the originally proposed ordinance the landlord was required to offer tenants evicted from structures or lots containing between 6 and 14-units a one-time non-binding conciliation meeting.

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<sup>7</sup> See Proposed Section 26.50.020A. "Whenever a landlord seeks a no-cause eviction that will impact more than X units which house eligible households, as defined in this Chapter, during any given Y day period, the landlord shall provide a relocation assistance payment as follows: . . ."

**Ordinance Committee Deliberations on Relocation Assistance for Mass No-Cause Evictions**

The Ordinance Committee initially deliberated on the Mass No-Cause Eviction proposal on October 23, 2018 (Proposed Residential Tenant Protection Ordinances), followed by additional deliberations on February 26 and March 5, 2019 (Proposed Residential Tenant Protection Ordinances). During deliberations, the Committee addressed a number of concerns, including the basic question of how to define a “mass” eviction. First, in October 2018, the Committee expressed concern that the 15 unit threshold recommended by the Tenant/Landlord Task Force had not been studied to determine how many Santa Barbara tenant households would be protected. The property owners argued that the 15 unit threshold is related to the size at which on-site property management becomes necessary under state law, and was therefore a practical and reasonable size for regulation.<sup>8</sup>

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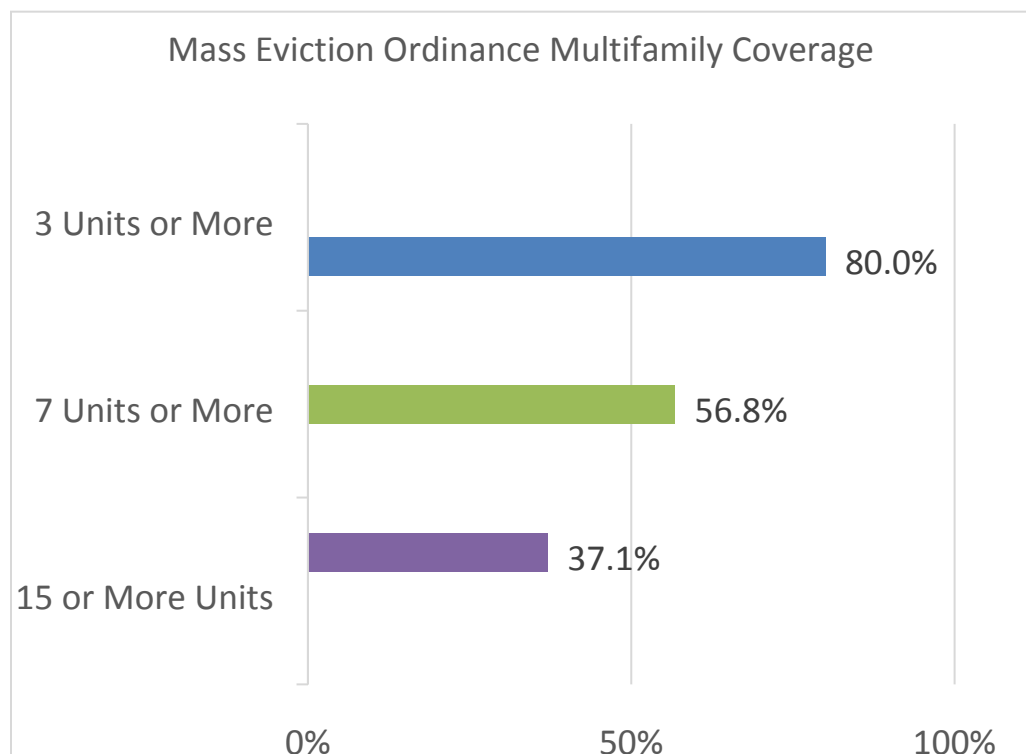
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<sup>8</sup> “A manager, janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments, and of every hotel in which there are 12 or more guest rooms, in the event that the owner of an apartment house or hotel does not reside upon said premises.” (Cal. Code Regs., tit. 25, § 42.)

Staff returned on February 26 with the following data.

Number of Units		Citywide Total	Total 0 to 14	Total 15 or more	% of Citywide Total	15 or More Units	7 Units or More	3 Units or More
2	2	3,720			20.0%			
003-006	3 to 6	4,310			23.2%			80.0%
007-014	7 to 14	3,656	11,686		19.7%		56.8%	
015-020	15 to 20	1,573		6,883	8.5%	37.1%		
021-040	21 to 40	1,762			9.5%			
041-080	41 to 80	2,000			10.8%			
081-184	81 to 184	1,548			8.3%			
		18,569	11,686	6,883	100.0%			
		36,918						

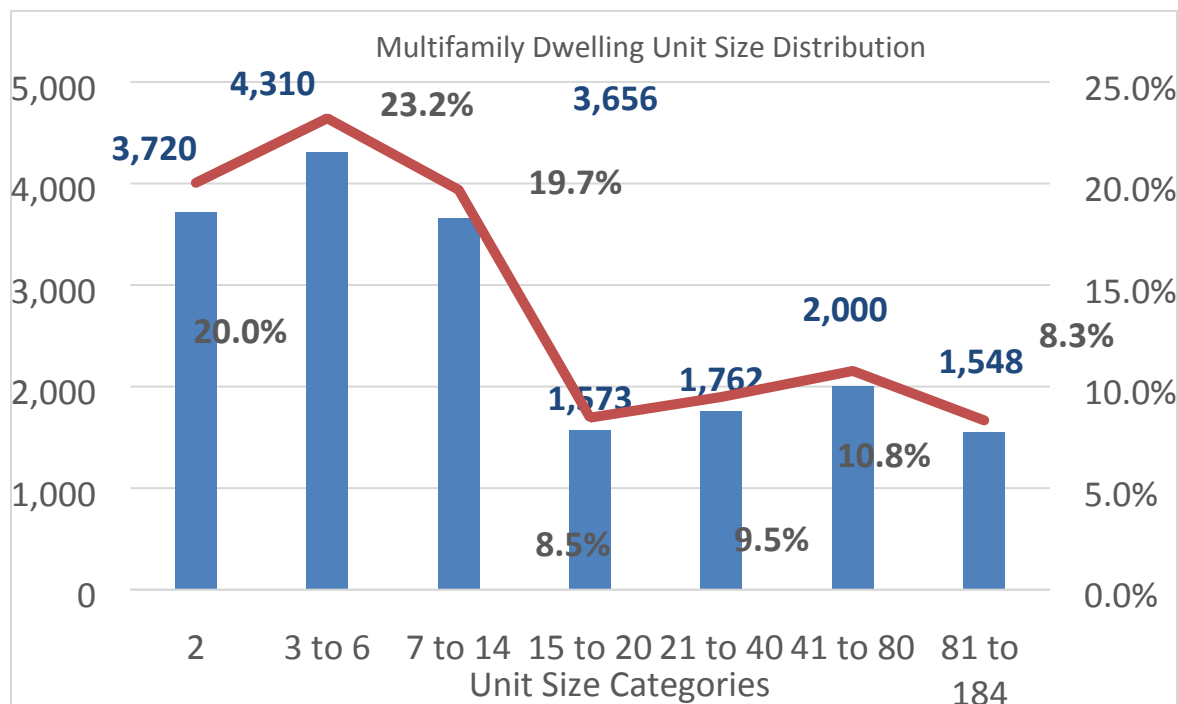
The Tenant/Landlord Task Force proposal would cover 37.1% of Santa Barbara's multifamily dwelling units. The unit distribution is shown graphically on the following charts:





Accordingly, as proposed by the Task Force, the 15 unit threshold for mass eviction protections would cover about 37.1% of the multi-family units in Santa Barbara and about 19% of the total dwelling units in Santa Barbara. Reducing the applicability threshold to 7 units results in 56.8% multifamily coverage and 32% of the total dwelling units in Santa Barbara, and 3 or more units would engage about 80% of Santa Barbara’s multi-family rental stock.

The following chart shows the size distribution data by unit size category:



The Ordinance Committee considered the Task Force recommendation in light of these data, and by a split vote concluded that 7 units was a more appropriate threshold as it covered about 57% of multifamily units (M/Sneddon S/Gutierrez 2-1, Rowse No).

Second, in terms of what constitutes a “mass” eviction, the Ordinance Committee debated how many units must be affected by eviction<sup>9</sup> before the event becomes a “mass” eviction. In addition to the 15 unit threshold, SBAOR through Andy Alexander, proposed defining “mass” as 35% or more of the units over a 12 month period. This translates to 35% x 15 or 6 (5.25 rounded up) units in any 12 month period. The Ordinance Committee felt this definition was too large, and instead opted for a 20% threshold over 12 months. The Ordinance Committee

<sup>9</sup> We are using the term “eviction” in this report to mean any no-cause termination of tenancy.

recommendation would therefore call for relocation payments to eligible households and tenants when 20% x 7 units or 2 (1.4 rounded up) units face no-cause mass eviction in a 7-dwelling unit lot or structure.

The table below shows how the 20% threshold would work on differently sized multifamily dwellings, and includes a comparison against the SBAOR proposal.

	<b>Ordinance Committee</b>	<b>SBAOR</b>
<b>Unit Threshold</b>	7 or more	15 or more
<b>12 Month No-Cause % Threshold</b>	20%	35%
<b>As Applied</b>		
<b>7 Units</b>	2 no-cause evictions in 12 months	Not Applicable
<b>10 units</b>	2 no-cause evictions in 12 months	Not Applicable
<b>15 units</b>	3 no-cause evictions in 12 months	6 no-cause evictions in 12 months
<b>25 units</b>	5 no-cause evictions in 12 months	9 no-cause evictions in 12 months

Third, the proposed ordinance as presented to the Ordinance Committee would have applied only in the R-3 and R-4 zoning districts (R-M and R-MH in Title 30). This limitation was proposed by the City Attorney in order to be consistent with the Task Force recommendation and to further define those properties to which the ordinance applied. The Ordinance Committee voted unanimously to eliminate this restriction as unnecessary. The Committee felt that the number of residential dwelling units in the structure or on the lot should be the sole determining factor.

**Further Consideration of “Just Cause” Eviction Remedies**

The Ordinance Committee voted 2 to 1 to bring further consideration of just cause eviction remedies back to Council via this report (M/Sneddon S/Gutierrez, Rowse No).

The City Attorney addressed just cause eviction remedies in the March 21, 2017 report included as Attachment 1.

**BUDGET/FINANCIAL INFORMATION:**

The City will incur modest expense in staff time for development of various forms and administration of the proposed ordinances. These efforts would be absorbed with existing and previously authorized staffing. Depending on the remedies for conciliation included in the adopted ordinances, there may be additional costs incurred in the Rental Housing Mediation Program.

- ATTACHMENTS:**
1. CAR March 21, 2017 (Potential Strategies For Residential Tenant Protection Measures)
  2. CAR June 27, 2017 (Tenant Protection Task Force)
  3. June 27, 2017 Council Meeting Minutes
  4. CAR January 30, 2018 (Tenant/Landlord Task Force Recommendations)
  5. January 30, 2018 Minutes
  6. Ordinance Committee Agenda Report October 23, 2018 (Proposed Residential Tenant Protection Ordinances)
  7. Ordinance Committee Agenda Report February 26, 2019 (Proposed Residential Tenant Protection Ordinances)
  8. Ordinance Committee Agenda Report March 5, 2019 (Proposed Residential Tenant Protection Ordinances)

**PREPARED BY:** Ariel Calonne, City Attorney

**SUBMITTED BY:** Ariel Calonne, City Attorney

**APPROVED BY:** City Administrator's Office