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Long Beach, California

UB-12

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April 14, 2009

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare ordinance amending the LBMC by amending Chapter 21.60, relating to relocation assistance for households displaced due to demolition or condominium conversion, read the first time and laid over to the next regular meeting of the City Council for final reading; and adopt resolution authorizing the Director of Development Services to submit amendments to the California Coastal Commission for its consideration and approval. (Citywide)

DISCUSSION

At the March 17, 2009, City Council meeting, the City Council requested that the City Attorney's Office meet with representatives of the Apartment Association, Southern California Cities and the Legal Aid Foundation of Los Angeles in order to resolve the final remaining issue related to the adoption of the proposed Ordinance. Due to scheduling issues, the matter was continued to April 14, 2009.

The remaining issue concerning the adoption of the Ordinance relates to Section 21.60.330 that details those situations when relocation benefits would not apply. For instance, benefits would not apply if a tenant moved from the premises voluntarily, or when the landlord can demonstrate that the unit has been vacant for at least six months prior to the application for conversion or demolition.

The original draft ordinance (presented to the Council on March 17, 2009) contained a provision that made benefits inapplicable when the tenant household **"moved voluntarily (which shall not include the situation where the landlord/owner has served the tenant with a notice to quit or vacate)."** The Apartment Association took exception to the above parenthetical phrase arguing that its members would be precluded from evicting tenants for legitimate reasons such as the non-payment of rent, or the tenant causing a nuisance at the premises. Legal Aid, on the other hand, felt that keeping the phrase offered an important protection to the tenants.

Honorable Mayor and City Councilmembers

April 14, 2009

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In an effort to resolve the impasse between the parties, the City Attorney's Office suggested language that was perceived to be a compromise that would hopefully satisfy the concerns of both the Apartment Association and Legal Aid.

The suggested language revision eliminated the parenthetical phrase altogether and substituted a new sentence that read: **"No owner or the agent of an owner shall evict a tenant in order to avoid the provisions of this Chapter."** This same language is found in other municipal ordinances dealing with tenant relocation issues. The language was circulated to both parties for comment. The Apartment Association was satisfied with the proposed language, but Legal Aid was not.

Given the impasse, the City Attorneys Office is recommending that the Ordinance be adopted with the provision set forth above. It is felt that this sentence protects tenants from situations where a landlord might attempt to evict in order to avoid the payment of relocation benefits. It is also fair to landlords/owners because it would still allow them to lawfully evict tenants in situations such as the non-payment of rent, or the creation of a nuisance situation at the premises. If the landlord or tenant had a dispute as to whether or not a particular eviction was "lawful," these matters would be resolved in a court of law.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By


MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm

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1 ninety (90) days prior to the application for demolition.

2 B. The tract map is for the conversion to condominium units of
3 apartment units which are occupied by very low or low income
4 households, and will result in the displacement of such households which
5 were tenant households at the time of approval of the tentative tract map,
6 or who rented a unit in such a project after the first notice of intention to
7 convert was given without being notified of the intended conversion and
8 who continued to rent or lease at the time as specified in the notice given
9 to tenants ten (10) days prior to approval of the final tract map as required
10 by Subsection 20.32.040.F of this Code.

11 21.60.330 When benefits inapplicable.

12 Relocation benefits are not required to be paid or given when the
13 applicant provides evidence to the satisfaction of the Housing Services
14 Bureau that the tenant household: 1) moved voluntarily (~~which shall not~~
15 ~~include the situation where the landlord/owner has served the tenant with~~
16 ~~a notice to quit or vacate~~); 2) that the unit has been continuously vacant
17 for at least six (6) months prior to the application, 3) that the unit has been
18 occupied by a household which is not very low or low income for at least
19 six (6) months prior to the application, 4) that the unit has never been
20 occupied prior to the application, or 5) that the application involves the
21 demolition of no more than one (1) single family dwelling unit. No owner
22 or the agent of an owner shall evict a tenant in order to avoid the
23 provisions of this Chapter.

24 21.60.340 Payments and distribution of relocation benefits.

25 A. The relocation benefits required by this Chapter shall be paid by
26 the owner or designated agent directly to the tenant household in the form
27 of a certified check, cashier's check, or money order after the issuance of
28 the one hundred eighty (180) day notice. Upon proof of new tenancy

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RESOLUTION NO.

A RESOLUTION OF THE CITY OF LONG BEACH
AUTHORIZING THE DIRECTOR OF DEVELOPMENT
SERVICES TO SUBMIT AMENDMENTS TO THE LONG
BEACH ZONING REGULATIONS TO THE CALIFORNIA
COASTAL COMMISSION FOR APPROVAL

WHEREAS, on _____, 2009, the City Council of the City of
Long Beach amended certain provisions of the Long Beach Zoning Regulations of the
City of Long Beach related to Relocation Assistance; and

WHEREAS, it is the desire of the City Council to submit the above
referenced zoning regulation amendments to the California Coastal Commission for its
review as implementing ordinances of the Long Beach Local Coastal Program (LCP); and

WHEREAS, the Planning Commission and City Council gave full
consideration to all facts and the proposals respecting the amendments to the zoning
regulations at a properly noticed and advertised public hearing; and

WHEREAS, the City Council approved the proposed changes to the LCP by
adopting the amendments to the zoning regulations. The proposed zoning regulation
amendments are to be carried out in a manner fully consistent with the Coastal Act and
become effective in the Coastal Zone immediately upon Coastal Commission
certification; and

WHEREAS, environmental documentation has been prepared, certified,
received and considered as required by law, and the City Council hereby finds that the
proposed amendments will not adversely affect the character, livability or appropriate
development of the surrounding properties and that the amendments are consistent with
the goals, objectives and provisions of the general plan;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as

1 follows:

2 Section 1. The amendment to the Long Beach Zoning Regulations of the
3 City of Long Beach adopted on _____, 2009, by Ordinance No.
4 _____, a copy of which is attached to and incorporated in this
5 resolution as Exhibit "A" and is hereby submitted to the California Coastal Commission
6 for its earliest review as to that part of the ordinance that directly affects land use matters
7 in that portion of the California Coastal Zone within the City of Long Beach.

8 Section 2. The Director of Development Services of the City of Long
9 Beach is hereby authorized to and shall submit a certified copy of this resolution, together
10 with appropriate supporting materials, to the California Coastal Commission with a
11 request for its earliest action, as an amendment to the Local Coastal program that will
12 take effect automatically upon Commission approval pursuant to the Public Resources
13 Code or as an amendment that will require formal City Council adoption after Coastal
14 Commission approval.

15 Section 3. This resolution shall take effect immediately upon its adoption
16 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

17 I certify that this resolution was adopted by the City Council of the City of
18 Long Beach at its meeting of _____, 2009, by the following vote:

19 Ayes: Councilmembers: _____

20 _____

21 _____

22 Noes: Councilmembers: _____

23 _____

24 Absent: Councilmembers: _____

25 _____

26 _____

27 _____
City Clerk

28