



OFFICE OF THE CITY ATTORNEY
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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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH AMENDING THE LONG BEACH
MUNICIPAL CODE BY AMENDING CHAPTER 21.60,
DIVISIONS I THROUGH III, RELATING TO RELOCATION
ASSISTANCE

The City Council of the City of Long Beach ordains as follows:

Section 1. Divisions I through III of Chapter 21.60 of the Long Beach
Municipal Code are amended to read as follows:

Chapter 21.60

RELOCATION ASSISTANCE FOR HOUSEHOLDS DISPLACED
DUE TO DEMOLITION OR CONDOMINIUM CONVERSION ACTIVITY,
AND MEETING THE HOUSING NEEDS OF PERSONS OF VERY LOW
AND LOW INCOME HOUSEHOLDS

Division I. Purpose, Definitions and Applicability.

21.60.110 Purpose.

The purpose and intent of this Chapter is to mitigate problems
caused by displacement of very low and low income households, and to
provide relocation assistance to very low or low income households
displaced due to demolition or condominium conversion.

21.60.120 Definitions.

In addition to the definitions set forth in Chapter 21.15, the following
definitions shall apply to this Chapter 21.60.

1 A. "Affordable unit" means a unit with housing costs that do not
2 exceed:

3 1. Thirty percent (30%) of household income of a low income
4 or very low income household for rental units; or

5 2. Thirty percent (30%) of household income of a low income
6 or very low income household for-sale units.

7 B. "Disabled person" means any head of household who meets the
8 definition in Section 12926 (I) or (K) of the California Government Code, or
9 any successor section or sections thereto.

10 C. "Housing cost" means the monthly rent for rental units or
11 mortgage payments for-sale units.

12 D. "HUD" means the United States Department of Housing and
13 Urban Development or its successors.

14 E. "Income eligibility" means the gross annual household income
15 anticipated for the next twelve (12) month period received by the family
16 head, spouse and each additional person eighteen (18) years of age or
17 older who will be residing in the household, regardless of source and
18 including all net income derived from assets.

19 F. "In-lieu fee" means a fee paid to the City Housing Development
20 Fund by developers subject to this Chapter in lieu of providing affordable
21 units required by this Chapter.

22 G. "Low income household" means a household who qualifies as
23 "lower income" pursuant to Health and Safety Code Section 50079.5, or
24 any successor statute thereto.

25 H. "Market rate unit" means a dwelling unit which is not subject to
26 ownership or rental limitations under this Chapter.

27 I. "Off-site construction" means erection of very low or low income
28 housing units on land within the City of Long Beach other than a project

1 site for which affordable units will be provided pursuant to Division IV or
2 Division VI.

3 J. "Project" means a residential development, subdivision or similar
4 proposal for which City permits or approvals are sought.

5 K. "Senior citizen" means any head of household who is sixty-two
6 (62) years or older on the date of the notice of intent to offer a unit for sale
7 pursuant to Section 20.32.050 of this Code.

8 L. "Tenant household" shall mean one or more individuals who: (1)
9 have a landlord-tenant relationship with the property owner/converter, by
10 renting or leasing a rental unit to be converted; and (2) can demonstrate a
11 landlord-tenant relationship by providing copies of leases, cancelled rent
12 checks, rent receipts, utility bills, phone bills, or any other evidence of
13 renting or leasing the premises as determined by the Housing Services
14 Bureau.

15 M. "Very low income household" means a household who qualifies
16 as "very low income" pursuant to Health and Safety Code Section 50105,
17 or any successor statute thereto.

18 21.60.130 Applicability of this Chapter.

19 This Chapter applies to all areas of the City of Long Beach
20 including the coastal zone, except for Divisions IV and VI which apply,
21 when operative, to all areas of the City except for the coastal zone.

22 Division II. Administration and Determinations.

23 21.60.210 Administration.

24 A. The administration of the tenant relocation program and the
25 provisions of Division IV and, when and if operative, Division VI is
26 delegated to the Housing Services Bureau of the Department of
27 Community Development. The Bureau shall adopt appropriate guidelines
28 for program administration consistent with the intent of this Chapter. The

1 Bureau may charge applicants, developers, and owners for the
2 administration of this program as reasonably necessary to recover the full
3 costs of such administration. Applicants, developers and owners will be
4 charged for all direct costs incurred on their behalf along with other costs
5 of administration.

6 B. A schedule of hourly and other administrative fees shall be
7 adopted by resolution of the City Council of the City of Long Beach,
8 reviewed annually, and adjusted during the City's annual budget process.

9 C. Determinations.

10 1. It shall be the responsibility of the Housing Services
11 Bureau to determine if housing units to be demolished or converted to
12 condominiums are occupied by very low or low income households.

13 2. Determinations made by the Housing Services Bureau
14 shall be attached by the applicant to the building demolition permit
15 application or condominium conversion application, and shall become a
16 public record in all proceedings and hearings related to that application.
17 The Bureau shall verify the rent value history and insure that there have
18 been no price or other changes made for the purpose of circumventing
19 these regulations.

20 Division III. Relocation Assistance

21 21.60.310 Relocation benefits to be provided.

22 A. Notification of intended displacement.

23 1. Unless otherwise provided in this Chapter, very low or
24 low income households shall not be displaced from housing due to
25 demolition or condominium conversion as provided in this Chapter unless
26 first given prior written notice of the intended displacement, on a form
27 provided or approved by the Housing Services Bureau, at least eighteen
28 (18) months prior to the intended date of displacement. Said notice shall

1 include, but not be limited to, an advisement as to the availability of
2 relocation benefits as prescribed by this Chapter.

3 2. A household otherwise eligible for eighteen (18) month
4 notification hereunder may voluntarily waive such notification provided
5 that:

6 a. The waiver shall be in clear and legible writing in a
7 language the tenant understands;

8 b. The waiver shall clearly set forth the amount of
9 written notice the tenant household shall receive before vacating the unit
10 (a thirty (30) day minimum notice is required) together with an agreed
11 upon move-out date if there is one; and

12 c. The tenant household shall receive the full
13 relocation amount required by this Chapter at a date sooner than would
14 have been typically required by this Chapter. The owner shall pay the full
15 relocation amount directly to the tenant household, with proof of said
16 payment to the Housing Services Bureau, in the form of a certified check,
17 cashier's check, or money order. Any person executing a waiver pursuant
18 to this Section may rescind said waiver in writing, within seventy-two (72)
19 hours of its execution, for any reason whatsoever. Upon a timely
20 rescission, the waiver shall be of no further effect. Notification of
21 rescission need only be given by the tenant household once.

22 d. The office of the City Attorney approves the waiver
23 as to both form and content.

24 3. A household occupying a unit to which notification of
25 displacement has been previously given, or for which a waiver was filed by
26 another household, shall not be entitled to additional notification if, but
27 only if, it is given a true, accurate and legible copy of the previously given
28 notice or waiver prior to the time of its entry into a rental agreement for the

1 unit or, if no such agreement is signed, prior to taking occupancy.
2 Notification need only be given once, and any rescission shall not result in
3 commencement of a new eighteen (18) month notice period.

4 4. Notwithstanding any other provision of this Subsection
5 21.60.310.A, very low or low income households displaced by the
6 following classes of project need only be given prior written notice of the
7 intended displacement at least ninety (90) days prior to the intended date
8 of displacement for the following types of projects:

9 a. A project consisting of the demolition of a unit or
10 units the purpose of which is to construct a single family residence; or

11 b. A project consisting of the demolition of less than
12 twenty (20) existing dwelling units for the purpose of constructing a non-
13 residential project; or

14 c. Any project providing at least ten percent (10%) of
15 its units affordable to low income households or five percent (5%) of its
16 units affordable to very low income households pursuant to the provisions
17 of this Division IV.

18 B. Monetary Assistance.

19 1. Very low and low income households displaced due to
20 demolition or condominium conversion as provided in this Chapter shall be
21 entitled to three thousand nine hundred and forty-one dollars (\$3,941.00)
22 in relocation costs.

23 2. Very low and low income households with a disabled
24 member displaced under this Chapter shall be entitled to be reimbursed
25 for structural modifications that the tenant household previously made to
26 the dwelling unit up to a maximum value of an additional two thousand five
27 hundred dollars (\$2,500.00). Proof of structural modifications shall be
28 made to the satisfaction of the Housing Services Bureau.

1 3. In addition to the payments set forth above, qualified low
2 and very low income senior citizens or low and very low income
3 households with a disabled member as defined in this Chapter shall be
4 entitled to an additional payment of two thousand dollars (\$2,000.00).
5 Said payment shall be made by the City from available Tax Increment Set
6 Aside Funds as such funds are described in the California Redevelopment
7 Law (Health and Safety Code Section 33000 et. seq.) if the Housing
8 Services Bureau determines that the use of the Tax Increment Set Aside
9 Funds complies with the California Redevelopment Law. In the event that
10 the criteria is met for the payment described in this Subsection, said
11 payment shall be made directly to the prospective new landlord or agent
12 for the purpose of paying either the head of households first or last months
13 rent, security deposit, or any combination thereof.

14 4. The Housing Services Bureau of the Department of
15 Community Development shall increase these amounts on a percentage
16 basis as determined by the change in the consumer price index between
17 January 1, 2009, and January 1 of the year in which the application for
18 demolition, or a condominium conversion final tract map, is filed with the
19 City.

20 21.60.320 Provision of relocation benefits.

21 Applicants for demolition permits of two (2) or more residential units
22 and for condominium conversion of two (2) or more residential units shall
23 be responsible for providing relocation assistance to very low and low
24 income households which are permanently displaced under one of the
25 following circumstances:

26 A. The demolition permit will result in the loss of a unit which is
27 occupied by a very low or low income household, and will result in the
28 displacement of such a household which has been a tenant for at least

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, 2) that the unit
15 has been continuously vacant for at least six (6) months prior to the
16 application, 3) that the unit has been occupied by a household which is not
17 very low or low income for at least six (6) months prior to the application,
18 4) that the unit has never been occupied prior to the application, or 5) that
19 the application involves the demolition of no more than one (1) single
20 family dwelling unit. No owner or the agent of an owner shall evict a
21 tenant in order to avoid the provisions of this Chapter.

22 21.60.340 Payments and distribution of relocation benefits.

23 A. The relocation benefits required by this Chapter shall be paid by
24 the owner or designated agent directly to the tenant household in the form
25 of a certified check, cashier's check, or money order after the issuance of
26 the one hundred eighty (180) day notice. Upon proof of new tenancy
27 (e.g., a letter from a prospective landlord or a signed lease), and thirty (30)
28 days before the tenant household plans to move, the converter or its

1 designated agent shall pay relocation benefits in the amount of the first
2 month's rent and security deposit (not to exceed the total amount of the
3 relocation benefits due) directly to the tenant's new landlord or their
4 designated agent. The tenant household shall receive the balance of
5 relocation benefits due, if any, at the time the tenant household vacates
6 the unit. Proof of all payments shall be made to the Housing Services
7 Bureau.

8 B. In the event there is a certified Court Order in existence at the
9 time tenant relocation benefits are due and payable directing the tenant
10 household to pay back rent or other related costs to the converter, the
11 converter may deduct the amount of rent or costs owed in the certified
12 Court Order from the relocation benefits due if the converter first provides
13 a copy of the certified Court Order to the Housing Services Bureau and
14 obtains written approval to deduct this amount.

15 C. The Applicant may not receive approval of its Final Map or
16 demolition permit if relocation benefits have not been paid in full to all
17 tenant households as set forth in Subsection 21.60.340.A.

18 D. In cases where the landlord has prematurely paid the eligible
19 tenant or tenants all of the relocation benefit due, the landlord shall be
20 exempt from paying further amounts provided that the landlord must first
21 provide documentary evidence that such funds were paid to the tenant
22 pursuant to the terms of a waiver as set forth in Section 21.60.310.

23 E. Owners shall not evict tenant households to avoid their
24 responsibility to pay relocation benefits required to be paid pursuant to this
25 Chapter. Qualified tenant households receiving thirty (30) or sixty (60) day
26 notices to terminate or quit the premises after approval of the Tentative
27 Map shall be presumed eligible and entitled to collect relocation
28 assistance pursuant to this Chapter.

1 21.60.350 Appeals.

2 Any property owner or tenant household may contest a decision by
3 the Housing Services Bureau regarding eligibility, relocation payment
4 amounts, or any other determination or claim made pursuant to this
5 Chapter. A party desiring to appeal shall file a written "Notice of Appeal"
6 with the Director of Community Development, or designee within twenty
7 (20) days of the decision, determination or claim. The Director or
8 designee shall hold a hearing within fourteen (14) days of receiving the
9 Notice of Appeal. Within ten (10) days of the appeal hearing the Director
10 shall issue his/her determination in writing. All notices from the Director
11 relative to the appeal shall be sent to both the property owner and all
12 tenant households affected by the appeal. The determination of the
13 Director or designee shall be final and conclusive.

14 21.60.360 Private right of action.

15 Tenant households subject to displacement shall have standing as
16 third party beneficiaries to file an action against an owner for injunctive
17 relief and/or actual damages for failure of the owner to comply with the
18 provisions of this Chapter. Nothing herein shall be deemed to interfere
19 with the right of the owner to file an action against a tenant or non-tenant
20 third party for any damage that may have been done to the owner's
21 property. Nothing herein is intended to limit the damages recoverable by
22 any party through a private third party action.

23 21.60.370 Application to heirs.

24 The provisions of this Chapter shall apply to all property owners
25 and their heirs, assigns and successors in interest.

26 21.60.380 Relationship to other laws.

27 Nothing in this Chapter is intended to prevent displaced households from
28 securing any relocation assistance and/or benefits to which they may be entitled

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under any other local, state or federal law.

21.60.390 Severability.

If any provision of this Chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Chapter shall not be invalidated.

Section 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three (3) conspicuous places in the City of Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 20__, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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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