



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-19

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March 17, 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

On July 24, 2007, the City Council requested that the Planning Commission undertake a review of the City's ordinance and procedures related to the relocation of persons due to the conversion of apartment units to condominiums or the demolition of the unit. Among other things, the Planning Commission held a public hearing on October 13, 2007, to receive the public's input on this topic. As a result of the public hearing and other information received by Planning staff and the Commission, the Planning Commission submitted a report to the City Council at the Council's meeting of December 11, 2007. At the conclusion of the December 11, 2007 City Council meeting, the Council voted to request the City Attorney to prepare amendments to Chapter 21.60 of the Municipal Code to provide better protections to households who might be displaced due to demolition or the conversion of apartment buildings to condominiums.

Pursuant to the direction of the City Council, staff and the City Attorney's office met with various stakeholders including the Legal Aid Foundation of Los Angeles to craft ordinance amendments that would reflect the direction given by the City Council at its meeting of December 11, 2007.

Among other things, the proposed amendments to Chapter 21.60 include:

- A clearer and more accurate definition of terms;
- Stricter “waiver” provisions that require payment of the full relocation amount directly to the tenant household and the ability of the tenant household to rescind the “waiver” within seventy-two (72) hours of its execution, together with a requirement that the City Attorney review all waivers for compliance;
- A requirement that very low and low income households displaced due to conversion or demolition receive \$3,945.00 in relocation benefits from the property owner;
- A requirement that very low and low income displaced individuals suffering from disabilities be reimbursed up to the amount of \$2,500.00 for structural improvements made to the unit to accommodate the disability;
- A requirement that low and very low income senior citizens and disabled persons who are displaced receive an additional payment of \$2,000.00 from available Tax Increment Set Aside Funds;
- A requirement that relocation payment amounts be adjusted annually based upon changes to the Consumer Price Index;
- A requirement that Final Map or demolition approval will not be given until appropriate relocation benefits have been paid;
- A requirement that the property owner assist the displaced household with relocation by providing current lists of vacant and available rental units in the City every two weeks until such time as the household vacates the property;
- A provision that provides tenant households with a “private right of action” that would permit the tenant to bring a legal action directly against the property owner for a failure to abide by the provisions of Chapter 21.60.

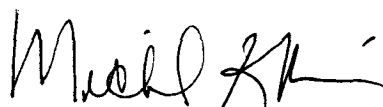
SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

ROBERT E. SHANNON, City Attorney

By


MICHAEL J. MAIS
Assistant City Attorney

Chapter 21.60

RELOCATION ASSISTANCE FOR, AND MEETING 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 ~~implement various goals of the Long Beach general plan to provide housing opportunities affordable to very low and low income households displaced due to demolition or condominium conversion.~~

(Ord. C 6894 § 1 (part), 1991)

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.

~~A. "Low income household" means a household earning not more than eighty percent of the county median household income.~~

~~B. "Very low income household" means a household earning not more than fifty percent of the county median household income.~~

~~C.A. "Affordable unit" means a unit with housing costs that do not exceed:~~

1. Thirty percent of household income of a low income or very low income household for rental units; or

2. Thirty-five percent of household income of a low income or very low income household for-sale units.

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

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

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

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

F.G. "In-lieu fee" means a fee paid to the city housing development fund by developers subject to this chapter in lieu of providing affordable units required by this chapter.

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

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

I. "Off-site construction" means erection of very low or low income housing units on land within the city of Long Beach other than a project site for which affordable units will be provided pursuant to Division IV or Division VI.

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

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

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

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

(Ord. C-6894 § 1 (part), 1991).

21.60.130 Applicability of this chapter.

This chapter applies to all areas of the city of Long Beach including the coastal zone, except for Divisions IV and VI which apply, when operative, to all areas of the city except for the coastal zone.

(Ord. C-6894 § 1 (part), 1991).

Division II. Administration and Determinations

21.60.210 Administration.

A. The administration of the tenant relocation program and the provisions of Division IV and, when and if operative, Division VI is delegated to the housing services bureau of the department of community development. The bureau shall adopt appropriate guidelines for program administration consistent with the intent of this chapter. The bureau may charge applicants,

developers, and owners for the administration of this program as reasonably necessary to recover the full costs of such administration. Applicants, developers and owners will be charged for all direct costs incurred on their behalf along with other costs of administration.

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

C. Determinations.

1. It shall be the responsibility of the housing services bureau to determine if housing units to be demolished or converted to condominiums are affordable to and/or occupied by very low and low income households. ~~In making this determination, the bureau shall average rental/sale levels over a twelve (12) month occupied period.~~

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

(ORD-05-0007 § 2, 2006; Ord. C-6894 § 1 (part), 1991).

Division III. Relocation Assistance

21.60.310 Relocation benefits to be provided.

A. Notification of Intended Displacement.

1. Unless otherwise provided in this chapter, very low or low income households shall not be displaced from housing due to demolition or condominium conversion as provided in this chapter unless first given prior written notice of the intended displacement, on a form provided or approved by the housing services bureau, at least eighteen (18) months prior to the intended date of displacement. Said notice shall include, but not be limited to, an advisement as to the availability of relocation benefits as prescribed by this Chapter.

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

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

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

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

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

that such waiver shall be in writing and shall, among other things, clearly and legibly set forth the nature of the notification and the relocation benefit created herein to which the household is entitled. Any person signing such a waiver may rescind it within seventy-two (72) hours for any reason whatsoever, and upon such timely rescission, the waiver shall be of no further force and effect. Notification need only be given once and any rescission of waiver shall not result in commencing of a new eighteen (18) month notice period as to the person so rescinding.

3. A household occupying a unit to which notification of displacement has been previously given, or for which a waiver was filed by another household, shall not be entitled to additional notification if, but only if, it is given a true, accurate and legible copy of the previously given notice or waiver prior to the time of its entry into a rental agreement for the unit or, if no such agreement is signed, prior to taking occupancy. Notification need only be given once, and any rescission shall not result in commencement of a new eighteen (18) month notice period.

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

- a. A project consisting of the demolition of a unit or units the purpose of which is to construct a single family residence; residential project of four or less dwelling units; or
- b. A project consisting of the demolition of less than twenty (20) existing dwelling units for the purpose of constructing a non-residential project; or
- c. A project subject to the housing replacement provision of Chapter 21.61 of the Long Beach Municipal Code for the coastal zone; or
- d. Any project providing at least ten percent (10%) of its units affordable to low income households or five percent of its units affordable to very low income households pursuant to the provisions of this Division IV.

B. Monetary Assistance.

1. Very low and low income households displaced due to demolition or condominium conversion as provided in this chapter shall be entitled to thousand nine hundred forty- one dollars (\$3,941.00) ~~two thousand five hundred dollars (\$2,500.00)~~ in relocation costs.

2. Very low and low income households with a disabled handicapped member displaced under this chapter shall be entitled to be reimbursed for a replacement of structural modifications that the tenant household previously made to the dwelling unit up to a maximum value of an additional two thousand five hundred dollars (\$2,500.00). Proof of structural modifications shall be made to the satisfaction of the Housing Services Bureau, paid for at the vacated premises up to a maximum value of an additional two thousand five hundred dollars (\$2,500.00).

3. In addition to the payments set forth above, qualified low and very low income senior citizens or low and very low income households with a disabled member as defined in this Chapter shall be entitled to an additional payment of two thousand dollars (\$2,000.00). Said payment shall be made by the City from available Tax Increment Set Aside Funds as such funds are described in the California Redevelopment Law (Health and Safety Code Section 33000 et. seq.) if the Housing Services Bureau determines that the use of the Tax Increment Set Aside Funds complies with the California

Redevelopment Law. In the event that the criteria is met for the payment described in this Subsection, said payment shall be made directly to the prospective new landlord or agent for the purpose of paying either the head of households first or last months rent, security deposit, or any combination thereof.

3. The housing services bureau of the department of community development shall increase these amounts on a percentage basis as determined by the change in the consumer price index between January 1, ~~2009~~1994 and January 1 of the year in which the application for demolition, or a condominium conversion final tract map, is filed with the city.

(ORD-05-0007 §§ 3—5, 2006; Ord. C-7064 § 6, 1992; Ord. C-6894 § 1 (part), 1991).

21.60.320 Provision of relocation benefits.

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

A. The demolition permit will result in the loss of a unit which is occupied affordable by a very low or low income household, and will result in the ~~permanent~~ displacement of such a household which has been a ~~lawful~~ tenant for at least ninety (90) days prior to the application for demolition.

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

Relocation benefits are not required to be paid or given when the applicant provides evidence to the satisfaction of the Housing Services Bureau that the tenant household: 1) moved voluntarily (which shall not include the situation where the landlord/owner has served the tenant with a notice to quit or vacate), 2) that the unit has been continuously vacant for at least six (6) months prior to the application, 3) that the unit has been occupied by a household which is not very low or low income for at least six (6) months prior to the application, 4) that the unit has never been occupied prior to the application, or 5) that the application involves the demolition of no more than one (1) single family dwelling unit.

(ORD-05-0007 § 6, 2006; Ord. C-6894 § 1 (part), 1991).

21.60.330 When benefits inapplicable.

Relocation benefits are not required to be paid or given when the applicant provides evidence to the satisfaction of the housing services bureau ~~of the department of community development~~ that the tenant household: 1) moved voluntarily (which shall not include the situation where the landlord/owner has

served the tenant with a notice to quit or vacate), 2) or that the unit has been continuously vacant for at least six months prior to the application, 3) or that the unit has been occupied by a household which is not very low or low income for at least six months prior to the application, or 4) that the unit has never been occupied prior to the application, or 5) that the application involves the demolition of no more than one (1) single family dwelling unit.

(ORD-05-0007 § 7, 2006; Ord. C 6894 § 1 (part), 1991).

21.60.340 Payments and distribution of relocation benefits.

A. The relocation benefits required by this Chapter shall be paid by the owner or designated agent directly to the tenant household in the form of a certified check, cashier's check, or money order after the issuance of the one hundred eighty (180) day notice. Upon proof of new tenancy (e.g., a letter from a prospective landlord or a signed lease), and thirty (30) days before the tenant household plans to move, the converter or its designated agent shall pay relocation benefits in the amount of the first month's rent and security deposit (not to exceed the total amount of the relocation benefits due) directly to the tenant's new landlord or their designated agent. The tenant household shall receive the balance of relocation benefits due, if any, at the time the tenant household vacates the unit. Proof of all payments shall be made to the Housing Services Bureau.

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

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

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

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

F. The owner shall make available to each tenant household, at no cost, a reasonably complete and current list of vacant and available rental units within the City, which units are comparable as to the size and amenities to the unit occupied by the tenant household.

G. The owner shall provide an updated list of available rental units every two weeks between the time the notice described in Section 21.60.310 is provided and the time the tenant household either vacates the premises or notifies the property owner of the tenant household's intent to do so, whichever occurs first.

A. Each applicant shall pay the applicable relocation fees to the housing services bureau of the department of community development or provide

proof of waiver or proof that the relocation fee is not applicable, such proof to be acceptable to the housing services bureau, prior to issuance of the demolition permit or final tract map.

B. The housing services bureau of the department of community development shall distribute relocation benefits to eligible very low and low income households as follows:

1. To the displaced household, relocation benefits shall be paid to the tenant upon receipt of verification that the tenant has vacated the unit.

2. To a licensed household mover or rental company prior to the tenant's vacating the unit and at the request of the tenant, all or a portion of the relocation benefits may be paid upon presentation of an estimate for moving and/or rental of moving equipment.

C. In instances where relocation benefits are requested prior to unit vacation, the housing services bureau of the department of community development will ensure that checks are jointly payable to two parties. The two parties to whom the checks shall be payable are as follows:

1. The household; and

2. Either the landlord, moving company, or rental company, as applicable.

All remaining funds due the displaced tenant shall be disbursed to the tenant only upon verification of unit vacation.

D. In cases where lawful possession is being litigated, the housing services bureau of the department of community development will not release the relocation benefits until and unless the litigation is finally resolved through settlement, adjudication or otherwise.

E. In cases where the landlord has prematurely paid the eligible tenant or tenants all or part of the relocation benefit, the landlord shall be exempt from paying the commensurate amount to the housing services bureau of the department of community development, provided that the landlord must first provide documentary evidence that such funds were paid to the tenant, tenants or any authorized agent thereof.

(ORD-05-0007 § 8, 2006; Ord. C-6894 § 1 (part), 1991).

21.60.350 Appeals.

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

21.60.360 Private right of action.

Tenant households subject to displacement shall have standing as third party beneficiaries to file an action against an owner for injunctive relief and/or actual damages for failure of the owner to comply with the provisions of this Chapter. Nothing herein shall be deemed to interfere with the right of the owner to file an action against a tenant or non-tenant third party for any

damage that may have been done to the owner's property. Nothing herein is intended to limit the damages recoverable by any party through a private third party action.

21.60.370 Application to heirs.

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

21.60.380 Relationship to other laws.

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

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
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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

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
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follows:

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

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

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

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

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk