



Memorandum

To: HONORABLE MAYOR AND CITY COUNCIL **From:** Councilmember Chappie Jones

Subject: SEE BELOW

Date: April 24, 2018

Approved:

SUBJECT: POTENTIAL AMENDMENTS TO THE TENANT PROTECTION ORDINANCE REGARDING IMMIGRATION AND CRIMINAL ACTIVITY

RECOMMENDATION

Modify the Tenant Protection Ordinance (TPO) to:

1. Include a provision that prohibits landlords from disclosing or threatening to disclose tenants' and/or associates of tenants' immigration or citizenship status to authorities for the purposes or intent of retaliation, harassment, intimidation, or recovering possession of a rental unit consistent with Civil Code 1940.35(a), as amended; and
2. Include "Criminal Activity", as a separate just cause basis for eviction to allow a landlord to serve a Notice of Termination of Tenancy when a tenant has been ruled in a preliminary hearing to be "held to answer", pursuant to Penal Code Section 872, for a serious felony as defined by California Penal Code Section 1192.7(c), as amended, or a violent felony as defined by Penal Code Section 667.5(c), that was committed during his or her tenancy and within a 1,000 ft. radius of the premises. Include an "opportunity to cure" that would require that landlords, prior to serving a Notice of Termination of Tenancy, provide tenant households a written notice to remove the tenant who was held to answer from the unit or the tenant's name from the lease agreement within a reasonable time, using one of the following methods:
 - a. Filing a restraining order or providing evidence of similar steps being taken to remove the tenant held to answer from the household; OR
 - b. Removing the member of the household held to answer and providing written notice to the landlord that said tenant has been removed.

BACKGROUND

At the March 22, 2018 Special Housing & Community Development Commission (HCDC) meeting, Housing Department staff presented a recommendation like the one above but used the standard of a conviction in court rather than held to answer.

One of the arguments against using the conviction standard is that it lengthens the amount of time that it takes to evict a violent tenant. Housing staff stated in their policy alternative that they would not recommend this standard because it "Potentially creates (a) situation for owners and other tenants in which a dangerous person remains in the apartment for an extended period of time."

Whereas “Held to Answer”, pursuant to California Penal Code Section 872, occurs in a relatively faster and reasonable time frame, and still allows for a form of due process in proving a tenant’s danger to his or her community.

The TPO should make sure that the term “Criminal Activity” is a separate just cause basis rather than included under nuisance. A separate definition will leave less to interpretation of whether the accused crime that is held to answer is a nuisance or a severe violent felony.

Additionally, the Criminal Activity just cause eviction basis should include a radius of within 1,000 feet of the premises, similar to the standard used in the TPO of the City of Los Angeles. Actions that may jeopardize the safety within a community including but not limited to violence, prostitution, selling of narcotics, gang-related activities, and more can occur on the sidewalk just off a premise or even across the street. A standard of 1,000 feet is a better way to ensure safety within our communities while also creating a measurable nexus tying held to answer criminal activity to an actual location. A stronger direct nexus will in turn make for a stronger court case challenging an eviction resulting from a held to answer accusation either to recuse the accusation or confirm it.