



Tenant Relocation Assistance Ordinance **Frequently Asked Questions**

1) What triggers the City's Tenant Relocation Assistance Ordinance (Ordinance) requirements?

The following actions trigger the Ordinance: a) landlord sends a termination of tenancy notice; or b) landlord sends a rent increase notice of greater than 12% of the tenant's current rent (or multiple rent increase notices that are cumulatively greater than 12% of the tenant's base rent during a one year period) where the tenant confirms in writing that the tenant intends to vacate the rental unit, except that the Ordinance does not apply to rent increases for residential properties where landlords may establish the initial and all subsequent rental rates for a residential property pursuant to California Civil Code Section 1954.52 (Costa-Hawkins Act).

2) Can landlords and tenants come to their own mutual settlement?

Yes. Nothing prevents a landlord and tenant from agreeing to their own mutual settlement or resolution over tenant relocation assistance that differs from the Ordinance.

3) Does the Ordinance prohibit retaliation by the landlord against tenants lawfully and peaceably exercising their rights under the Ordinance?

Yes. A landlord is prohibited from beginning eviction proceedings against tenants for exercising their rights under the Ordinance. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising their legal rights.

4) What housing types are subject to the Ordinance?

In order to be subject to the ordinance, a residential property must have two or more tenant-occupied housing units (such as duplexes, triplexes, four-plexes and larger multifamily residential rental buildings) on a single parcel of land offered for rent.

Examples of exemptions to the Ordinance could include:

- a) A duplex where the owner lives in one unit as their primary residence and then rents out the other unit
- b) A detached single family housing unit that is rented out

5) What landlord-caused actions are exempt from the Ordinance?

- a) Tenant failure to pay rent
- b) Tenant breach of lease or rental contract
- c) Tenant illegal activities
- d) Failure to allow landlord access after legal notice
- e) Residential property uninhabitable without landlord fault (e.g., tenant's negligence or willful misconduct, earthquake, fire, flood)
- f) Lawful termination of employment where such employment (e.g., on-site property manager) by the landlord was a condition of the lease
- g) Temporary repairs where the landlord provides the tenant with alternative housing during the renovation period
- h) Prior notice of renovations where the landlords notifies the tenant, before entering into a lease, of their intent to remodel the property (The landlords must submit plans with the City at the time they notify the tenant of the termination of tenancy)
- i) Landlord occupancy of the rental unit (limited to the landlords, their spouse, parent or parents or landlord's spouse's parent or parents, landlord's child or children or landlord's spouse's child or children, and landlord's or landlord's spouse's grandchildren)

Please refer to San Leandro Municipal Code Sections 4-37-200(f)(1-9) of the Tenant Relocation Assistance Ordinance for more details.

6) Is there a limit or cap on the amount of tenant relocation assistance to be paid per unit?

There is a \$7,000 cap per unit for tenant relocation assistance payment which includes the special-circumstances household payment when applicable.

7) How is the tenant relocation assistance amount calculated for an eligible tenant?

A landlord shall provide tenant relocation assistance in a total amount not to exceed \$7,000 (including a special-circumstances household payment) to an eligible tenant based on the greater of the following:

- a) Three times the current Fair Market Rents (“FMR”) as published annually by the U.S. Department of Housing and Urban Development (“HUD”) for the Oakland-Fremont, California HUD Metro FMR Area in the Federal Register, or
- b) Three times the monthly rent that the tenant(s) is paying at the time the notice of the landlord-caused termination is delivered.

A tenant may also be entitled to claim a special-circumstances household payment of One Thousand Dollars (\$1,000) per residential unit. See below for special-circumstances household eligibility.

8) What is a special–circumstances household?

A special-circumstances household is a tenant or anyone else authorized by the landlord to occupy the residential rental property with any of the following characteristics at the time of notice of a landlord-caused termination:

- a) At least one resident of the residential property is sixty-two (62) years of age or older;
- b) At least one resident of the residential property qualifies as disabled as defined by Title 42, United States Code, No. 423 or handicapped as defined by California Health and Safety Code Section 50072; and/or
- c) One or more minor children (under eighteen (18) years of age) who are legally dependent (as determined for federal income tax purposes) and reside in the rental unit.

9) What are the HUD Fair Market Rents (“FMR”)?

HUD (or the U.S. Department of Housing and Urban Development) annually calculates, the estimated current rent levels, by bedroom size, for metropolitan areas of the United States to establish payment standards for federal housing programs. The HUD FMR is an established and publicly accessible standard. Under the Ordinance, the current HUD FMR for the Oakland-Fremont Metropolitan Area will be used to calculate the tenant relocation assistance amount. HUD typically releases the annual FMR in early October. The City will post the most current FMR on the **City’s Tenant Relocation Assistance website** for public use.

10) Is a mobile home that is rented to a tenant subject to the Ordinance?

If a tenant is renting the mobile home unit from the landlord, then the unit is subject to the Ordinance provided that the unit is one of two or more tenant occupied units on a single parcel. If the tenant owns the mobile home, but is leasing the space or pad below, then the mobile home is not subject to the Ordinance.

11) As a landlord, what tenant relocation assistance noticing must I provide to an eligible tenant?

A landlord must provide one of the following two types of notice of entitlement to relocation assistance to the tenant:

- a) Termination of tenancy: Landlord shall provide a written notice of termination to all tenants subject to termination of tenancy from a residential property required by State law at least ninety (90) days prior to the date a tenant must vacate the residential property for landlord-caused terminations. Written notice of a tenant's entitlement to relocation assistance shall be provided by the landlord at the same time that the landlord provides notice of termination of tenancy from a residential property; or
- b) Rent increases: For landlord-caused terminations where a landlord provides a proposed rent increase that raises the rent, or proposed multiple rent increases that cumulatively raise the rent, to an amount more than twelve percent (12%) greater than the base rent at any time during a twelve (12) month period and the tenant elects to not remain in the residential property, the landlord shall provide a written notice of tenant's entitlement to relocation assistance at the same time that the landlord provides notice of a rent increase. This excludes residential properties where landlords may establish the initial and all subsequent rental rates for a residential property pursuant to California Civil Code Section 1954.52 (Costa-Hawkins Act).

The notice of entitlement to relocation assistance shall be posted on the door to the residential property and sent certified mail or first class mail, or personally served upon tenant, and shall be provided in the three (3) predominant languages (English, Spanish and Chinese) spoken in the City.

12) As a landlord, do I need to create the applicable notice of entitlement to tenant relocation assistance?

No, the City has created both types of notices (in English, Spanish and Chinese) for landlords to access and download for free from the [City's Tenant Relocation Assistance website](#).

13) What happens if the landlord fails to attach the appropriate notice of entitlement to tenant relocation assistance with the termination of tenancy notice?

If a landlord fails to provide the notice of entitlement to tenant relocation assistance with the applicable notice of termination of tenancy notice or rent increase notice of greater than 12% (or multiple rent increase notices that are cumulatively greater than 12% of the tenant's base rent during a one year period), then the landlord has violated the Ordinance. A landlord may be able to remedy a failure to provide notice of entitlement to tenant relocation assistance by re-noticing the tenant with a notice of termination of tenancy or notice of rent increase with the notice of entitlement to relocation assistance.

A landlord's failure to comply with the Ordinance may be asserted as an affirmative defense in an action brought by the landlord to recover possession of the residential property. Any attempt to recover possession of a residential property in violation of the Ordinance renders the landlord liable to the tenant for actual and punitive damages, including damages for emotional distress, in a civil action for wrongful eviction. The tenant may also seek injunctive relief and money damages for wrongful eviction and/or failure to pay relocation assistance in compliance with the Ordinance.

14) When do the eligible tenants receive their tenant relocation assistance payments?

Depending on whether the termination of tenancy is based on a landlord-caused termination of tenancy or landlord-caused termination of tenancy due to a rent increase (or multiple rent increases) of greater than 12%, the landlord will pay the relocation assistance based on one of the following procedures:

- a) For landlord-caused terminations: After taking into account any adjustments in the amount of the relocation assistance under San Leandro Municipal Code section 4-37-310(a), the landlord shall pay one half of the relocation assistance no later than five business days following service of the notice to a tenant of landlord-caused termination and one half of the relocation assistance no later than five days after the tenant has vacated the residential property.

- b) For landlord-caused terminations where a landlord provides a proposed rent increase that raises the rent, or proposed multiple rent increases that cumulatively raise the rent, to an amount more than twelve percent (12%) greater than the base rent at any time during a twelve (12) month period and the tenant elects to not remain in the residential property: The landlord shall pay one half of the tenant relocation assistance no later than five business days following receipt of written notice that the tenant intends to vacate the residential property and one half of the relocation assistance no later than five days after the tenant has vacated the residential property.

15) What happens if the tenants decide to remain in their unit, but have already received half or all of their tenant relocation assistance?

If the tenants ultimately fail to vacate the residential property following a landlord-caused termination where a landlord provides a proposed rent increase that raises the rent, or proposed multiple rent increases that cumulatively raise the rent, to an amount more than twelve percent (12%) greater than the base rent at any time during a twelve (12) month period, the tenants shall reimburse relocation assistance to the landlord.

16) How will the relocation assistance payment be paid when there are multiple tenants in a rental unit?

If the residential property is occupied by two (2) or more individuals, then relocation assistance shall be paid to the individual entitled to occupy the residential property under the rental agreement.

17) What can the landlord deduct from the tenant relocation assistance payable to a tenant?

A landlord may deduct any and all past due rent owed by a tenant during the twelve months prior to termination of tenancy from the tenant relocation assistance and any amount paid for any damage, cleaning, key replacement, or other purposes served by a security deposit as defined by the rental agreement, to the extent the security deposit is insufficient to provide the amounts due for such costs.

18) How will the City track the effectiveness of the Ordinance?

City staff will annually prepare a report to City Council assessing the Ordinance's effectiveness and will recommend changes as appropriate from time to time.

19) Does the Ordinance prevent a tenant and landlord from using the Rent Review process?

No. Pursuant to the City's Rent Review Ordinance (please refer to San Leandro Municipal Code Chapter 4-32), if the tenants receive an eligible rent increase, including a rent increase of greater than 12%, they may apply for a Rent Review hearing. To be eligible for a Rent Review hearing, the rent increase must be greater than 7% of the current rent and/or there must be two or more rent increases in a 12 month period. The Rent Review Board provides a non-binding hearing process for both tenants and landlords in order to achieve a mutually agreeable resolution to a contested and eligible rent increase. Tenants have 21 days upon receiving an eligible rent increase under the Rent Review Ordinance to apply for Rent Review.

Tenants who opt to pursue the Rent Review when also eligible for tenant relocation assistance should be mindful of the Rent Review and Tenant Relocation Assistance deadlines to ensure they do not conflict. Click [here](#) to go to the City's Rent Review Program website.

20) When do landlords have to provide tenants with both Tenant Relocation Assistance and Rent Review notices?

When landlords send rent increase notices of greater than 12% of the tenant's current rent (or multiple rent increase notices that are cumulatively greater than 12% of the tenant's rent during a one year period), then the landlords must attach both the notice of Rent Review and the appropriate notice of entitlement to relocation assistance to the rent increase notice. Click [here](#) to go to the City's Rent Review Program website.