

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisor John J. Benoit and Supervisor Marion Ashley

SUBMITTAL DATE:
December 22, 2009

SUBJECT: Introduction and Adoption of Ordinance No. 893 Providing
For Displacement Payments for Residential Households

RECOMMENDED MOTION: That the Board of Supervisors introduce, and on the following week, adopt, Ordinance No. 893 Providing for Displacement Payments for Residential Households.

BACKGROUND: Some residential rental properties within the County fall into such a poor condition due to an owner's neglect that the County must order the property's tenants to vacate the property for the tenants' own health and safety. Although the substandard conditions at these properties are in no way the tenants' fault, they must currently bear the cost and burden of relocation to other, habitable housing.

In addition, the County has occasionally expended relocation benefits to tenants who have been displaced due to property owner neglect, where the owner has failed to provide such assistance. Yet, the County currently has no enforcement mechanism for recovering these funds from the property owners responsible for the health and safety violations that resulted in their tenants' displacement.

The attached ordinance addresses the foregoing issues by requiring that residential rental property owners who fail to maintain their properties in a safe and habitable condition pay the relocation expenses of their displaced tenants. Residential rental property owners who fail to do so will be subject to penalties. Furthermore, the attached ordinance provides County agencies that expend relocation benefits to displaced tenants with a mechanism whereby they can recover these expended costs from the property owner.


John J. Benoit, Fourth District Supervisor


Marion Ashley, Fifth District Supervisor

FORM APPROVED COUNTY COUNSEL

BY:  JONATHAN D. HINKLE, County Counsel
12/22/09
DATE

Prev. Agn. Ref.:

District:

Agenda Number:

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1 Section 4. EXEMPTIONS. The following exemptions shall apply in the
2 application of this ordinance:

- 3 a. No owner shall be liable to any residential household or County agency for
4 displacement payments if the residential household or any one of its
5 members caused or substantially contributed to the condition giving rise to
6 the order to vacate, nor shall any displacement payments be payable to a
7 residential household if any guest or invitee of the residential household has
8 caused or substantially contributed to the condition giving rise to the order
9 to vacate.
- 10 b. No owner shall be liable to any residential household or County agency for
11 displacement payments if the unit or structure became unsafe or hazardous
12 as the result of a fire, flood, earthquake, or other event beyond the control of
13 the owner, and the owner did not cause or contribute to the condition.
- 14 c. No owner shall be liable to any residential household or County agency for
15 displacement payments provided the owner provides a habitable
16 replacement residential unit of comparable size and appurtenances to the
17 vacated residential unit and provided the owner pays all costs associated
18 with moving the residential household to the replacement unit.
- 19 d. No owner shall be liable to any residential household or County agency for
20 displacement payments if the residential household is in default in payment
21 of rent, unless rent is being lawfully withheld by the residential household.
- 22 e. No owner shall be liable to any residential household or County agency for
23 displacement payments if the vacated unit is operated as an emergency or
24 temporary shelter for homeless persons (whether such persons have
25 assigned rooms or beds, and regardless of duration of stay by any occupant)
26 by a nonprofit organization or public agency owning, leasing, or managing
27 such unit.

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- 1 f. No public entity, as defined in Government Code Section 7260, holding all
2 or any part of the legal title to a residential unit occupied by a residential
3 household otherwise subject to this ordinance, shall be liable for
4 displacement payments.

5 Section 5. DEFINITIONS. As used in this ordinance, the following terms shall
6 have the following meanings:

- 7 a. County Agency. Any agency, department, division, or political
8 subdivision of the County of Riverside or under the authority of the County
9 of Riverside Board of Supervisors, or the Board of Supervisors sitting as the
10 directors of said agency.
- 11 b. Enforcement Agency. Any County of Riverside department or
12 division, including its director or the director's designees, authorized to
13 ascertain the condition of a residential unit and to issue notices requiring
14 owners to bring such units into compliance with applicable building and
15 housing codes that threaten the health and safety of residential households.
- 16 c. Owner. Any person, persons, landlord, corporation, or any entity
17 holding all or any part of the legal title to a property or their agent,
18 successors or assigns. "Owner" does not include a residential household as
19 defined herein, or any member thereof, that holds legal title to the
20 residential unit in which they reside.
- 21 d. Displacement. The required vacating of a residential unit by a residential
22 household as a result of an order to vacate or an order requiring the vacation
23 of a residential unit by the enforcement agency.

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1 e. Residential Unit. A structure or that part of a structure which is used as
2 a place of permanent or customary and usual abode of a residential
3 household, including but not limited to a room in a single family home,
4 hotel or motel, rooming house or apartment, single family home, mobile
5 home or mobile home space, trailer or trailer space. "Residential unit" does
6 not include any unit occupied pursuant to an innkeeper-guest relationship.

7 f. Residential Household. Any person or group of people, whether
8 related or unrelated, entitled to occupy a residential unit or portion of real
9 property primarily for living or dwelling purposes under a written or oral
10 rental agreement as tenants, subtenants, lessees or sublessees, including
11 such persons' personal property that is a normally and customarily
12 contained within the residential unit. "Residential household" does not
13 include the owner of a residential unit or members of the owner's
14 immediate family, except as provided in Section 9 of this ordinance.

15 Section 6. ENTITLEMENT TO DISPLACEMENT PAYMENTS. Any residential
16 household that is displaced or subject to displacement from a residential unit as a result of an order to
17 vacate or an order requiring the vacation of a residential unit by the enforcement agency as a result of a
18 violation so extensive and of such a nature that the immediate health and safety of the residents is
19 endangered, shall be entitled to receive displacement payments from the owner.

20 Section 7. CONTENTS AND SERVICE OF ORDER TO VACATE. At the time of
21 the service of an order to vacate, the enforcement agency shall determine if any residential household
22 subject to the order may be entitled to displacement payments. The determination of entitlement to
23 displacement payments, or the reason that any residential household may not be entitled to displacement
24 payments, shall accompany the order to vacate. The order to vacate shall also include, or be accompanied
25 by, a summary of the provisions of this ordinance and an itemized accounting of the displacement
26 payment due to the residential household. Failure to provide such summary or itemized accounting shall
27 not relieve any person of the obligations imposed by this ordinance.

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1 Section 8. DISPLACEMENT PAYMENT. The amount of the displacement
2 payment due to the residential household shall be determined as follows:

3 a. The displacement payment shall be made available by the owner to the
4 eligible residential household in an amount equal to two months of the
5 periodically established Fair Market Rent for the Riverside-San Bernardino-
6 Ontario, California Metropolitan Statistical Area as determined by the
7 United States Department of Housing and Urban Development pursuant to
8 Section 1437f of Title 42 of the United States Code. The Fair Market Rent
9 for residential households shall be the amount established according to the
10 number of unit bedrooms, except in cases in which the residential
11 household owns the residential unit as set forth in Section 9 of this
12 ordinance, in which case the Fair Market Rent shall be the amount
13 established for manufactured home spaces. In addition, the displacement
14 payment shall include an amount, as determined by the enforcement
15 agency, sufficient for utility service deposits. The displacement payment
16 shall be paid by the owner in addition to the return, as required by law, of
17 any security deposits held by the owner. The displacement payment shall be
18 payable on a per residential household basis.

19 b. The displacement payment shall also include the fixed residential moving
20 cost established by the Federal Highway Administration as set forth in
21 Section 24.302 of Title 49 of the Code of Federal Regulations.

22 Section 9. ADDITIONAL DISPLACEMENT PAYMENT FOR MOVEABLE
23 RESIDENTIAL UNITS ON RENTED REAL PROPERTY. In the
24 case of an order to vacate a portion of real property in which the residential
25 household, or any member thereof, hold legal title to a moveable residential
26 unit on the owner's real property, the displacement payment shall include
27 the reasonable cost of moving the residential household's residential unit to
28 a comparable portion of real property within the County of Riverside,

1 provided such residential unit is not subject to an order to vacate or
2 otherwise not habitable or not moveable as determined by the enforcement
3 agency. If such residential unit is not habitable or not moveable and was
4 allowed by the owner to be placed upon the real property without the owner
5 complying with all applicable land use laws and regulations, then the owner
6 shall reimburse the residential household for the fair market value of the
7 residential unit. If such residential unit is not habitable or not moveable,
8 and if the owner is in compliance with all applicable land use laws for the
9 placing of the residential unit on the owner's real property, then the owner
10 shall not be liable for reimbursing the residential household for any portion
11 of the value of residential unit. An owner's obligation to provide a
12 displacement payment to a residential household that is required to vacate a
13 portion of real property due to the owner's conduct, as determined by the
14 enforcement agency, is limited only to the extent provided by this section.

15 Section 10. TIMING OF DISPLACEMENT PAYMENT.

- 16 a. The displacement payment required by this ordinance shall be paid by the
17 owner to the residential household within ten (10) days after the date that
18 the order to vacate is first mailed to the owner and posted on the premises,
19 or at least twenty (20) days prior to the vacation date set forth in the order to
20 vacate, whichever occurs later.
- 21 b. If there are fewer than ten (10) days between the first posting and mailing of
22 the order to vacate and the vacation date, the displacement payment shall be
23 paid by the owner to the residential household within twenty-four (24)
24 hours after the notice is posted and mailed. The enforcement agency shall
25 attempt to provide telephonic or written notice to the owner to notify the
26 owner that the benefits are payable immediately. Failure to provide the
27 notice as specified in this section shall not relieve the owner of any
28 obligations imposed by this ordinance.

c. Any owner who does not make a timely payment shall be liable to the residential household for an amount 1½ times the displacement payments payable pursuant to Section 8 of this ordinance. No penalty shall apply when displacement payments are payable fewer than ten (10) days after the date the order to vacate is first mailed and posted, if the owner makes payment no later than ten (10) days after the order is first mailed and posted.

Section 11. DISCRETIONARY DISPLACEMENT PAYMENT BY COUNTY AGENCY.

Any County agency may, at its discretion, advance displacement payments to displaced residential households, and shall be entitled to recovery of any advanced displacement payments. The enforcement agency shall be entitled to recover on any County agency's behalf all displacement payments that were due and payable to the residential household by the owner as determined by the enforcement agency and were actually paid by the County agency. The enforcement agency shall also be entitled to recover from the owner an additional amount equal to the sum of one-half the amount so paid, but not to exceed ten thousand dollars (\$10,000), as a penalty for failure to make timely payment to the displaced residential household, and the County's actual costs, including direct and indirect costs, of administering the provision of displacement payments to the displaced residential household. Any amounts paid by the County agency and any applicable penalties and actual costs may also be placed as a lien against the property by the enforcement agency by recording the lien in the County Recorder's office. Prior to instituting any action to collect from the owner any displacement payments paid pursuant to this section, or to impose a lien therefor, the enforcement agency shall send to the owner by first-class mail, postage prepaid, at the owner's address as shown on the last equalized assessment roll, an itemized accounting of all payments paid by any County agency to the residential household, and any penalties or costs the enforcement agency is seeking to recover on the County agency's behalf. Nothing herein shall be construed as requiring the County or any County agency to pay any displacement payments to any residential household, or assume any obligation, requirement, or duty of the owner. Further, nothing herein shall be construed as limiting the County's remedies for recovering any advanced displacement payments.

1 Section 12. APPEAL OF DETERMINATION OF DISPLACEMENT PAYMENTS.

- 2 a. If the owner contends that not all of the payments deemed chargeable to the
- 3 owner by the enforcement agency on the grounds that the intended or actual
- 4 recipients were not displaced residential households, no displacement
- 5 payments were payable pursuant to this ordinance, or on other grounds, the
- 6 owner shall be entitled to an administrative hearing before the enforcement
- 7 agency's director or director's designee by submitting a written appeal to
- 8 the director of the enforcement agency within twenty (20) days after receipt
- 9 by the owner of an itemized accounting of displacement payments due the
- 10 residential household or reimbursement due the County for advance
- 11 displacement payments paid by any County agency to the residential
- 12 household, including any costs and penalties provided herein. After
- 13 providing at least ten (10) days written notice to the owner, the enforcement
- 14 agency's director or director's designee shall hold the administrative
- 15 hearing for the purpose of determining the amount chargeable to the owner,
- 16 including penalties and costs, if any. Notice may be delivered in person or
- 17 may be mailed to the address listed by the owner in the request for hearing.
- 18 In determining the validity of any displacement payments, penalties or costs
- 19 chargeable to the owner, the director or director's designee shall consider
- 20 whether the violations that led to the order to vacate were created by, or are
- 21 the responsibility of, the owner and shall also consider those exceptions set
- 22 forth in Section 4 of this ordinance. In conducting the hearing, the director
- 23 or director's designee shall not be limited by the technical rules of evidence.
- 24 The decision of the director or the director's designee shall be in writing
- 25 and include notice of a right to appeal the decision to the Board of
- 26 Supervisors.

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- b. The decision of the director or the director's designee may be appealed by filing a written notice of appeal with the enforcement agency within ten (10) days after mailing the decision. The appeal shall be heard by the Board of Supervisors which may affirm, amend or reverse the decision and may take any other action deemed appropriate. The enforcement agency's director or the director's designee shall give written notice of the time and the place of the hearing to the appellant. In conducting the hearing, the Board of Supervisors shall not be limited by the technical rules of evidence.
- c. The final decision of the Board of Supervisors shall be subject to Section 1094.5 of the Code of Civil Procedure. If the owner fails to obtain a more favorable decision than that set forth in the itemized accounting, the owner shall be liable to the enforcement agency for the costs of the administrative hearing and appeal, not to exceed five thousand dollars (\$5,000). The failure to receive the itemized accounting shall not relieve the owner of any obligation under this ordinance.

Section 13. TIME FOR OWNER TO REIMBURSE COUNTY FOR DISCRETIONARY DISPLACEMENT PAYMENTS. If there are fewer than ten (10) days between the first posting and mailing of the order to vacate and the vacation date, and if the County advances displacement payments to any residential household, prior to the expiration of the 10-day period, the owner shall not be required to reimburse the enforcement agency for a charge identified on the itemized accounting if the owner contests the charge within twenty (20) days after the itemized accounting is mailed to the owner. The owner shall pay any charges that were the subject of the appeal within thirty (30) days after an adverse decision by the enforcement agency on the appeal is mailed to the owner. In all other cases, the owner shall pay any charge identified on the itemized accounting within thirty (30) days after the itemized accounting is mailed to the owner.

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