

Oakland Tribune

City seizes authority to evict

In face of loud protest, council adopts law that boosts ability to force

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Wednesday, March 17, 2004 - OAKLAND -- The Oakland City Council voted Tuesday to boost the city's ability to force drug dealers and criminals out of their homes or apartments, becoming the first city in Northern California to adopt such a law.

Opponents of the nuisance eviction ordinance condemned the council's 6-1 vote, saying the new law will erode tenant protections without addressing the real problems facing Oakland such as drug abuse and unemployment.

"This will evict people from their homes not with proof but with allegations," Oakland resident Dorsey Nun said. "This is outrageous! It will push people of color out into the street. I expect better from elected officials in Oakland."

The two-hour-long discussion nearly spun out of control at times, prompting Council President Ignacio De La Fuente (San Antonio-Fruitvale) to order Oakland police officers to remove disorderly speakers and to warn that he would have the council chambers cleared if opponents did not stop chanting "No on NEO."

The angry crowd shouted down Councilmember Jean Quan (Montclair-Laurel), urging her to remember who voted to elect her.

Although property owners already have the right to evict tenants who deal drugs, commit crimes and create a nuisance, the new law permits city officials to order landlords to evict problem tenants. Those who refuse to act could face fines of up to \$1,000 a day.

In addition, the ordinance gives the city authority to intervene and evict criminal tenants itself, if the landlord is threatened with retribution.

"This ordinance is about the right not to have to live next door to drug dealers and illegal activity, where you can do nothing about it," said Councilmember Jane Brunner (North Oakland).

After criticizing the ordinance and calling for a more balanced approach, Councilmember Nancy Nadel (Downtown-West Oakland) abstained from the vote. Councilmember Desley Brooks (Eastmont-Seminary) was absent from the meeting. A final vote is expected April 6.

This excerpt is provided by the Rental Housing Association of Northern Alameda County. www.rhanac.org 510-893-9873

"We are so eager to punish, but so reluctant to help," Nadel said, adding that the ordinance will make it much more difficult for parolees to re-enter the community.

Supporters of the ordinance said it will allow city officials to take swift action against criminals and get results without waiting for drawn-out court battles to be resolved.

"One problem house or hotel can ruin the tranquility of a whole neighborhood," said Wayne Rowland, president of the Rental Housing Association of Northern Alameda County.

Many of those who spoke against the ordinance warned the council that it would weaken the hard-fought protections included in Measure EE, which limits the ability of landlords to evict tenants.

The version of the ordinance adopted by the council had been tweaked in response to complaints that the original ordinance would have prevented tenants from recovering attorney fees from the landlord or the city if they challenge the eviction and prevail in court.

City officials are now required to provide a summary of the evidence compiled by the city in support of its demand for eviction and allow tenants to present exculpatory evidence and ask for the order to be reconsidered, officials said.

Landlords will have up to 25 days to comply with the city's order to evict the tenant before getting slapped with stiff fines. The original ordinance gave landlords 15 days to act.

In addition, landlords must turn over all evidence that could clear the tenant of charges brought by the city. If the landlord withholds that information, his or her action could be determined to be wrongful in a lawsuit brought by the tenant, which could allow a tenant to recover attorney fees.

Opponents of the measure said the changes did nothing to lessen their opposition to the ordinance.

The law allows landlords and the city to tailor the eviction notice to oust only the accused troublemaker, while allowing family members to remain in the home or apartment. It can also be used to close convenience stores, hotels and other commercial buildings.

Oakland's ordinance is modeled after a Los Angeles law that has been used to evict 190 tenants, most of whom left without challenging the order. All but a handful of the rest of the cases were settled out of court.