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Eviction ordinance stands to help and hurt landlords

By Bruce Gerstman

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The City Council will decide tonight whether a proposed ordinance aimed at evicting drug dealers from their homes will become law.

Tenant advocates have opposed the legislation, called the Nuisance Eviction Ordinance, saying it's unfair to renters. Now legal organizations say it could work against landlords, too, though city officials disagree.

The ordinance gives the city the ability to fine landlords failing to evict tenants that city officials believe to be selling drugs. The fine would be \$1,000 a day, according to city reports. Landlords who fear retribution from tenants can ask the city to step in and conduct the eviction.

This works against landlords, contended Julia Harumi Mass, staff attorney with the American Civil Liberties Union of Northern California, since property owners could end up paying extra costs they cannot afford. The city could pressure a landlord to evict a tenant who then appeals the eviction and wins, leaving the landlord with the legal bills.

"What choice does the landlord have at that point?" said Mass.

But deputy city attorney Richard Illgen said landlords who show evidence that their tenants do not sell drugs can keep their cases out of court. Cases that make it to court, he said, should be the landlords' responsibility.

"The landlord is making a decision to rent to this person. We're willing to be a buffer for safety out there" for landlords, said Illgen.

Property owners who rent to low-income residents are in the most jeopardy, because paying expenses for an appeal is hardest for them, said Judy Apel, acting director of legal affairs for the Drug Policy Alliance, an organization that opposes the ordinance.

"(The ordinance) strong-arms landlords to bring an eviction," she said. "I don't know why more landlords aren't fighting this."

The ordinance is a mixed bag, said landlord Don Januta. Januta, who said he owns over 100 rental units around Oakland, said he wants the city to help out with evictions, yet he remains concerned about court costs.

"If they could help us, that would be great," he said. "If we happen to lose, that part is not that helpful, especially when attorney fees rack up at a fast rate."

But by the time the city moves forward to press landlords to evict, the tenant has probably caused real problems, said officials from the Rental Housing Association of Northern California, which supports the ordinance. They said it's unlikely such a tenant would win an appeal.

Wayne Rowland, the association's president, agreed that the law works against landlords in the chance that they must pay court costs.

"We don't necessarily like that part," said association president Wayne Rowland. "But when you look at any law, it doesn't always work perfectly for both sides."