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6-2 vote expands new eviction law

Nuisance ordinance beefs up ability to force criminals from their homes; opponents call it 'dirty,' say it is overly broad

By Heather MacDonald

OAKLAND TRIBUNE, STAFF WRITER

Thursday, April 08, 2004 - OAKLAND -- The Oakland City Council on Tuesday expanded the city's ability to force drug dealers and other 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 6-2 vote, saying the new law will erode tenant protections without addressing the real problems facing Oakland such as drug abuse and unemployment.

"We cannot just flush people away," said Councilmember Nancy Nadel (Downtown-West Oakland), who cast one of the dissenting votes. "I understand the frustration, but this law won't eliminate drug dealing."

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.

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.

"I only care about those tenants who are trying to raise their children and are afraid," said Councilmember Larry Reid (Elmhurst-East Oakland). "Not criminals."

Councilmember Desley Brooks (Eastmont-Seminary), who joined Nadel in voting against the law, said it was overly broad and would not allow tenants unjustly accused of criminal behavior to prevent an eviction.

"The playing field is not level," Brooks said. "We're giving up our own rights."

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

"It is fundamentally wrong to evict someone based on an accusation," Reid said. "It's a dirty law."

The law requires city officials to provide a summary of the evidence compiled by the city in support of its demand for eviction to the tenant and allow him or her to present exculpatory evidence and ask for the order to be reconsidered.

"This is an attempt to protect landlords who are afraid and to, quite frankly, to move those landlords who don't give a damn about Oakland," said Councilmember Jean Quan (Montclair-Laurel).

Landlords will have up to 25 days to comply with the city's order to evict the tenant before getting slapped with stiff fines. 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

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could be determined to be wrongful in a lawsuit brought by the tenant, which could allow a tenant to recover attorney fees.

"This law is a tool that will give us hope," said Sylvester Grigsby, an East Oakland property owner.

The law allows landlords and the city to tailor the eviction notice to oust only the accused troublemaker while allowing family members to remain. It also can 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.

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