

OFFICE OF THE CITY ATTORNEY CITY OF OAKLAND

Frequently Asked Questions (FAQs)

Regarding Relocation for Owner/Relative Occupancy (Oakland Municipal Code (“OMC”) 8.22.850), requiring that rental property owners covered by City’s Just Cause for Eviction Ordinance (OMC 8.22.300 et seq) pay tenants relocation benefits when the owner or qualifying relative moves in

Issued: March 6, 2018

Revised:

Issued by: Barbara J. Parker, Oakland City Attorney



I. BACKGROUND

On January 16, 2018, the City Council adopted an ordinance (Ordinance No. 13468 C.M.S.) which requires that rental property owners covered under the Just Cause for Eviction Ordinance (OMC 8.22.300) pay relocation benefits to tenants when the owner seeks to evict the tenant to move the owner or qualifying relative into the unit. (OMC 8.22.360 A.9.) The Ordinance is codified at Oakland Municipal Code section 8.22.850.

II. GENERAL

1. How does the ordinance work?

Answer: An owner who seeks to evict a tenant household for the owner or a qualifying relative to occupy the unit must make relocation payments to the tenant household.

2. When did the ordinance take effect?

Answer: The Ordinance took effect on January 16, 2018, but it applies to any notice terminating a tenancy that served on a tenant on or after November 28, 2017. If an owner served the notice on or after November 28, 2017 but before January 16, 2018, the relocation payments are due when the tenant vacates, or if the tenant contests the eviction, when the owner prevails in the eviction action.

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III. PAYMENT AMOUNTS AND TIMING OF PAYMENTS

1. What are the relocation payment amounts?

Answer: The payment amount depends on the size of the unit. The number of tenants and the status of the tenant(s) are not factors in determining the amount. The payment covers the entire tenant household irrespective of the number of tenants and is divided equally among the tenants in the case of roommates. The amount also adjusts for inflation annually on July 1st. For owner move-in evictions, the base payment amounts (“Base Relocation Payment”) until June 30, 2018 are:

- \$6,875.58 per studio/one bedroom unit
- \$8,462.26 per two bedroom unit
- \$10,445.60 per three or more bedroom unit

Tenant households in rental units that include lower income, elderly or disabled tenants, and/or minor children are entitled to a single additional relocation payment of two thousand five hundred dollars (\$2,500) per unit from the owner (“Additional Relocation Payment”). Only one additional payment of \$2,500 is due for the unit even if more than one tenant qualifies for the additional payment (for example two elderly tenants in one unit receive a total of \$2,500 for the unit, not for each tenant); or a tenant who qualifies under more than one criteria for the additional payment (for example, an elderly tenant who also is disabled receives only one payment of \$2,500).

Example:

An owner wishes to move into a two-bedroom unit in March 2018. Tenants living in the unit include an elderly tenant and a child. The owner must pay the tenant household the following amount: \$8,184 (Base Relocation Amount) + \$2,500 (one Additional Relocation Payment for elderly/child) = \$10,684.

2. When are the relocation payments due?

Answer: Half of the Base Relocation Payment is due at the time the owner serves the tenant the notice and the other half is due when the tenant agrees to vacate, provided that the tenant agrees not to contest an unlawful detainer (eviction court action). The Additional Relocation Payment of \$2,500 is due

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within 15 days after the tenant notifies the owner of tenant’s eligibility for the Additional Relocation Payment. If the tenant contests the unlawful detainer, then the tenant gets the other half of the Base Relocation Payment after the owner prevails in the eviction.

Example:

An owner wishes to move into a two-bedroom unit in March 2018. Tenants living in the unit include an elderly tenant and a child. The owner must give the household \$4,092 (half of the Base Relocation Payment) at the time the owner serves the owner move-in termination notice. \$2,500 (Additional Relocation Payment) is due within 15 days after the tenant notifies the owner that the household contains an elderly tenant and/or a child. The remaining \$4,092 (the other half of the Base Relocation Payment) is due when the tenant agrees to vacate or when the owner prevails in an eviction.

3. If the tenant recently moved in, does the tenant receive the full relocation amount?

Answer: No. The relocation amounts are phased in for new tenants. Tenants who lived in the unit for less than two years will receive reduced payments as follows:

- 1/3 of the full payment if tenant lived in the unit less than one year;
- 2/3 of the full payment if tenant lived in the unit one year or longer but less than two years;
- Full payment if the tenant lived in the unit for two years or longer.

Example:

An owner wishes to move into a two-bedroom unit in March 2018. Tenants living in the unit include an elderly tenant and a child, and they have lived in the unit for one year. The owner must pay the tenant household 2/3rds of the full amount: [\$8,184 (Base Relocation Payment) + \$2,500 (Additional Relocation Payment for elderly/child)] 2/3rds = \$7,122.67.

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IV. UNITS SUBJECT TO RELOCATION PAYMENTS

1. Do the new owner move-in relocation payment requirements apply to an owner who moves back to a unit after a sabbatical?

Answer: Not if the tenants agreed to the right to return in the rental agreement. The Ordinance clarifies that owners are **NOT** required to provide relocation payments to tenants if:

- The owner of record lived in the unit before as a principal place of residence and is seeking to move back in; and
- The right of the owner to return to the unit is in rental agreement with the current tenants.

(See OMC 8.22.360A.8).

2. Do the new owner move-in relocation payment requirements apply to duplexes or triplexes if the owner already lives in one of the units?

Answer: No. The new relocation requirements do not apply to owner-occupied duplexes or triplexes (including in-law units). These units are exempt from the Just Cause for Eviction ordinance and the owner can evict without paying relocation payments. Such units are exempt from the Just Cause for Eviction Ordinance as soon as the owner moves in (they are exempt from the rent regulation under the Rent Adjustment Ordinance two years after the owner’s continued occupancy).

Units exempt from the Just Cause for Eviction Ordinance, such as owner-occupied two to three unit properties or new construction after 1995, do not need a reason to evict. Therefore, exempt units are not subject to the relocation requirements.

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3. Do I have to pay relocation if I evict the tenant under the following circumstances: (1) I own and live in a single family home; (2) I rent space to a tenant; and (3) we share the kitchen or a bathroom?

Answer: No. The owner of a single-family home who rents space to a tenant and shares a kitchen or bath is exempt from the Just Cause for Eviction Ordinance, and hence, does not have to pay relocation benefits to a tenant who is evicted.

4. General exemptions from the Just Cause for Eviction Ordinance and relocation requirements.

Answer: Below is a chart of the some of the types of rental units that are covered or not covered under Just Cause for Eviction Ordinance and relocation requirements.

<u>Covered</u>	<u>Not Covered</u>
Renter-occupied single-family homes and condominiums built before 1996	Single-family homes where the owner shares living space such as bathroom or kitchen with the tenant
Multi-family apartment buildings built before 1996	Owner occupied duplexes or triplexes (including in-law units) where the owner already lives in one of the units
	Owner (not relative) previously occupied the unit and has the right to move back in under rental agreement with existing tenants
	Newly-constructed units with certificate of occupancy issued on or after December 31, 1995

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V. NOTICE REQUIREMENT

1. Do I have to notify my tenants of the new relocation requirement?

Answer: Yes if the new relocation requirement applies to you, and you served the termination notice after January 25. An eviction notice for owner or relative move-in must include a statement informing tenants of their right to relocation payments under the new ordinance and the amount of those relocation payments. (Reg 8.22.360.A.9.) This requirement applies to owner or relative move-in notices served after January 25, 2018.