

OFFICE OF THE CITY ATTORNEY CITY OF OAKLAND

Frequently Asked Questions (FAQs)

Regarding mandatory relocation payments to tenants required to vacate for owner or relative occupancy. (Oakland Municipal Code (“OMC”) 8.22.850).

Issued: March 6, 2018
Revised: May 29, 2019
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.) that 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 so that the owner or a qualifying relative can move 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 move into 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.

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 the first day of

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July. For owner move-in evictions, the base payment amounts (“Base Relocation Payment”) from July 1, 2018 to June 30, 2019 are:

- \$7,116.22 per studio/one-bedroom unit
- \$8,758.43 per two-bedroom unit
- \$10,811.20 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 2019. Tenants living in the unit include an elderly tenant and a child. The owner must pay the tenant household the following amount: \$8,462.26 (Base Relocation Amount) + \$2,500 (one Additional Relocation Payment for elderly/child) = \$10,962.26.

2. When are the relocation payments due?

Answer: Half of the Base Relocation Payment is due at the time the owner serves the tenant with the notice of termination of tenancy 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 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 2019. Tenants living in the unit include an elderly tenant and a child. The owner must give the household \$4,231.13 (half of the Base Relocation Payment) when the

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owner serves the tenant with 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, is the tenant entitled to 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 are entitled to reduced relocation 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 2019. 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: [\$8,462.26 (Base Relocation Payment) + \$2,500 (Additional Relocation Payment for elderly/child)] 2/3rds = \$7,308.17.

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

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- The right of the owner to return to the unit is in a written 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: Yes. In November 2018, voters approved Measure Y, which eliminated the exemption from Oakland’s Just Cause for Eviction Ordinance for owner-occupied duplexes and triplexes. Measure Y took effect on December 21, 2018. Accordingly, these owners can evict tenants only if there is “just cause” for eviction AND they also must pay relocation payments in the event of owner move-in evictions.

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. What rental units are exempt from the Just Cause for Eviction Ordinance and relocation requirements?

Answer: Below is a chart that shows whether certain types of rental units are covered by 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 when the owner shares living space such as bathroom or kitchen with the tenant

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<u>Covered</u> Multi-family apartment buildings built before 1996	<u>Not Covered</u> Newly-constructed units with certificate of occupancy issued on or after December 31, 1995
Owner occupied duplexes or triplexes (including in-law units) when the owner already lives in one of the units (Measure Y made such units subject to the Just Cause for Eviction Ordinance effective December 21, 2018.)	Owner (not relative) previously occupied the unit and has the right to move back in under rental agreement with existing tenants

V. NOTICE REQUIREMENT

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

Answer: Yes. If a rental unit is subject to the Just Cause for Eviction Ordinance, an eviction notice for owner or relative move-in must include a statement informing tenants of their right to relocation payments and the amount of those relocation payments. (Reg. 8.22.360.A.9.)