



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Attorney’s Office

**Prepared by: Genevieve Coyle,
Assistant City Attorney**

City Manager Approval: _____

TOPIC: TENANT RELOCATION ASSISTANCE BENEFITS

SUBJECT: RESOLUTION ADOPTING POLICY ON RELOCATION ASSISTANCE BENEFITS TO TENANTS DISPLACED BY AN ORDER TO VACATE UNDER HEALTH & SAFETY CODE SECTION 17975

RECOMMENDATION:

Staff recommends the City Council adopt a policy pertaining to relocation assistance benefits to tenants who are displaced by an order to vacate, pursuant to section 17975 of the Health & Safety Code.

BACKGROUND:

Residential tenants who are displaced from their home due to immediate health and safety concerns may experience difficulties in finding affordable, temporary housing while their home is being repaired, and/or difficulties in finding other permanent affordable housing. Such difficulties may create a financial hardship for the displaced tenants. Affected tenants often require shelter, public health, transportation, storage and other services on an interim basis, due both to the health impacts of unsafe or hazardous housing, as well as unanticipated needs occasioned by eviction.

Residential tenants in the Canal neighborhood of San Rafael recently experienced these hardships. On December 19, 2022, only a few days before the holidays, a three-alarm fire occurred at a large apartment complex at 400 Canal Street. The fire damaged five (5) apartments, immediately displacing approximately 25 residents from their units. The affected units were deemed uninhabitable and the tenants were temporarily relocated to a motel. The fire was ignited in a second-floor apartment that was under construction by the owner of the property, due to no fault of the displaced tenants.

State law (at section 17975 of the Health & Safety Code, referred to herein as “section 17975”) requires landlords, under certain circumstances, to provide monetary assistance to tenants forced to leave rental housing at no fault of their own. If the owner fails, neglects or otherwise refuses to make the required payments, the law permits a local enforcement agency, at its election, to advance relocation benefits and be reimbursed by the owner. The intent of the law is to provide an expedient means to provide relocation funds to displaced tenants in these circumstances. Sec. 17975.9.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

The City Council policy would provide the conditions under which the City of San Rafael may advance relocation assistance benefits to displaced tenants within its jurisdiction under section 17975, and clarify the appeals process for owners who have been ordered by the City to pay relocation benefits.

Landlord-Required Relocation Assistance Payments

Under certain circumstances, Section 17975 requires an owner (or their designated agent) to pay monetary relocation assistance benefits to a tenant who is displaced from a residential rental unit. The displacement must be caused by an order to vacate from a local enforcement agency due to immediate health and safety concerns. Sec. 17975. The local enforcement agency may include the city or county building department, health department, environmental agency, or fire department. 17960 et seq. The local enforcement agency determines the eligibility of tenants for benefits. Sec. 17975.

The owner is not required to make the payments if the tenant, or the tenant's guest or invitee, caused or substantially contributed to the uninhabitable condition; or, where the condition was caused by a natural disaster or event beyond the control of the owner and the owner did not cause or contribute to the condition. Sec. 17975.4(a)-(b).

If conditions requiring payment are met, the owner is required to pay to the tenant the following amounts, payable on a per residential unit basis:

- i. A sum equal to two months of the established fair market rent for the area as determined by the Department of Housing and Urban Development; plus
- ii. An amount sufficient for utility service deposits as determined by the local enforcement agency; plus
- iii. The return of any security deposit held by the owner.

Sec. 17975.2.

The owner must make the payment within the timeframes set by law – e.g., 10 days after the order to vacate is mailed – or will be liable to the tenant for an amount equal to one and one-half times the benefits payable. Sec. 17975.3.

The relocation payments under section 17975 are cumulative (in addition) to any other relocation benefits that the tenant may be entitled to under law. Sec. 17975.7. For example, San Rafael Municipal Code Chapter 10.111 requires, in certain circumstances, landlords to pay relocation assistance benefits to residents of rental housing who are displaced from their residences due to no fault terminations of their tenancies when the property is located in Census Tract 1122.01 -- a Qualified Opportunity Zone. The 400 Canal property is located within a Qualified Opportunity Zone.

City-Permitted Relocation Assistance Advancements

Section 17975.5(a) permits an agency to advance payments on behalf of the owner if the owner fails, refuses, or neglects to pay the above-required relocation payments. If the agency advances such payments, pursuant to a locally adopted policy, the agency is entitled to recover from the owner, payable on a per residential unit basis:

- i) any amount paid to a tenant, plus
- ii) a penalty in an amount equal to the sum of one-half the amount so paid, not to exceed \$10,000, plus
- iii) the agency's actual costs, including direct and indirect costs, of administering the provision of benefits to the displaced tenant.

Sec. 17975.5(a). Nothing in the law requires payment by the local enforcement agency – it is optional at the discretion of the agency. Sec. 17975.5(d).

Appeals

The local enforcement agency must provide for an appeals process. Sec. 17975.4. The owner has a right to appeal any benefits advanced by the agency that are charged to the owner, under procedures specified in section 17975.5(c).

ANALYSIS:

The recommended City Council of San Rafael Policy for Section 17975 Relocation Benefits is attached to the resolution.

Under the policy, the City Council would declare that property owners who allow their residential units to become unsafe or hazardous should bear responsibility for the hardship their actions create when tenants are required to vacate the premises. The intent of the policy is to ensure that owners provide adequate relocation assistance to tenants who are displaced from their homes when the uninhabitability is caused or contributed to by the owner (or agent of the owner), and for assistance to be provided to tenants in a manner that is equitable to the tenant, the property owner, and the public at large.

The City Manager would have the authority to make reimbursable advancements to tenants entitled to relocation benefits under section 17975 when the owner fails, neglects, or refuses to pay such benefits. The City Manager would exercise this authority at their discretion on a case-by-case basis, considering the unique circumstances of each event.

The following circumstances must be met to make advance payments:

1. The City Manager may only make advancements to tenants of multi-family, multi-unit structures.
2. Before advancing any City payments, the City Manager must ensure the availability and source of City funds to advance any payments. The City Manager is not permitted to make any advancements that do not have an identified source and appropriations authority. If the total amount of assistance benefits for any one event exceeds the City Manager's purchasing authority (currently at \$75,000), the advancements must be approved by the City Council in accordance with City purchasing policy.

Factors that the City Manager may consider in determining whether to advance relocation benefits include, but are not limited to:

- Number of tenants and units affected, with a requirement for multi-family, multi-unit structures;
- Total amount of benefit payments;
- The owner's good faith actions to comply with section 17975 and the City's orders;
- The owner's ability to reimburse the City, including any insurance proceeds available to the owner to cover the payments;
- The likelihood of recovery of payments made, and penalties and costs from the owner;
- Administrative costs encumbered by the City, including any attorneys' fees and litigation costs; and
- Whether tenant(s) have received or are entitled to receive other payments or benefits from the owner, Federal government, State, County or other source (e.g., see San Rafael Municipal Code Chapter 10.111 for Qualified Opportunity Zone relocation assistance).

If advancements are made by the City, the City Manager must seek reimbursement from the owner under section 17975.

The policy also provides an appeals process for owners who receive a City order to pay relocation benefits.

FISCAL IMPACT:

There is no fiscal impact associated with adopting this resolution and policy. Payments will be approved by the City Manager when there is sufficient budgetary capacity and will be brought for Council approval when above the City Manager's approval threshold.

The City Council has the following options to consider on the resolution:

1. Adopt the resolution.
2. Adopt the resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Staff recommends the City Council adopt a policy pertaining to relocation assistance benefits to tenants who are displaced by an order to vacate, pursuant to section 17975 of the Health & Safety Code.

ATTACHMENTS:

1. Resolution, with Policy.

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL ADOPTING POLICY ON RELOCATION ASSISTANCE BENEFITS TO TENANTS DISPLACED BY AN ORDER TO VACATE UNDER HEALTH & SAFETY CODE SECTION 17975

WHEREAS, residential tenants in the City of San Rafael who are displaced from their rental housing due to immediate health and safety concerns may experience difficulties in finding affordable, temporary housing while their home is being repaired, and/or difficulties in finding other permanent affordable housing; and

WHEREAS, such difficulties may create a financial hardship for the displaced tenants because they may require shelter, public health, transportation, storage and other services on an interim basis, due both to the health impacts of unsafe or hazardous housing, as well as unanticipated needs occasioned by eviction; and

WHEREAS, Sections 17975 through 17975.10 of the California Health & Safety Code (herein referred to as “section 17975”) require landlords, under certain circumstances, to provide monetary assistance to tenants forced to leave rental housing from a notice to vacate due to health and safety concerns, at no fault of their own; and

WHEREAS, Section 17975 permits a local enforcement agency to advance relocation benefits where the owner fails, neglects, or refuses to pay relocation payments to displaced tenants and bring an action to collect from the owner benefits paid and penalties and costs, or impose a lien on the owner’s property therefore; and

WHEREAS, the City Council desires that adequate relocation assistance is available to tenants forced to leave rental housing from a notice to vacate due to health and safety concerns, at no fault of their own, and for assistance to be provided to tenants in a manner that is equitable to the tenant, the owner, and the public at large; and

WHEREAS, the City Council desires to adopt a policy setting the conditions under which the City of San Rafael, pursuant to section 17975, may advance relocation assistance benefits to displaced tenants, pursue an action against an owner for reimbursement, and clarify the appeals process for an owner ordered by the City to pay relocation benefits.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES as follows:

1. The *Policy on Relocation Assistance Benefits to Tenants Displaced by an Order to Vacate Under Health & Safety Code Section 17975*, attached hereto and incorporated herein, is hereby adopted.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Tuesday, the 17th day of January 2023, by the following vote, to wit:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

Lindsay Lara, City Clerk



SAN RAFAEL

THE CITY WITH A MISSION

**CITY COUNCIL
CITY OF SAN RAFAEL**

POLICY

**RELOCATION ASSISTANCE BENEFITS TO TENANTS DISPLACED BY AN ORDER TO VACATE
UNDER HEALTH & SAFETY CODE SECTION 17975**

ADOPTION

Policy adopted by the City Council on January 17, 2023.

PURPOSE

This policy is intended to serve as a locally-adopted policy of the City of San Rafael, pursuant to sections 17975 through 17975.10 of the Health & Safety Code (referred to herein as “section 17975”).

Section 17975 requires landlords, under certain circumstances, to provide monetary assistance to tenants forced to leave rental housing from a notice to vacate due to health and safety concerns, at no fault of their own. If the owner fails, neglects or otherwise refuses to make the required payments, the law permits a local enforcement agency, at its election, to advance relocation benefits and be reimbursed by the owner. The intent of the law is to provide an expedient means to provide relocation funds to displaced tenants in these circumstances. Sec. 17975.9.

This policy provides the conditions under which the City of San Rafael, pursuant to section 17975, may advance relocation assistance benefits to displaced tenants, pursue an action against an owner for reimbursement, and clarify the appeals process for an owner required to pay relocation benefits.

The relocation payments set forth in section 17975 are cumulative (in addition) to any other relocation benefits that the tenant may be entitled to under law, including under the San Rafael Municipal Code. Sec. 17975.7. This policy is not intended to guide the payment of any other benefits to which a tenant may be entitled or to which an owner may be liable to pay.

Nothing in this policy shall be construed to require the City to pay or advance any relocation benefits to any tenant or assume any obligation, requirement, or duty of the owner pursuant to the law.

DEFINITIONS

The term “owner” means the owner of rental property, the designated agent of owner, and/or any other person liable to make relocation benefit payments under section 17975.

REFERENCE AND SUMMARY OF SECTION 17975

California Health & Safety Code, Article 2.5, Tenant Relocation Assistance, Sections 17975 through 17975.10: Displaced tenants by order to vacate; relocation benefits from owner; eligibility.

A. Landlord-Required Relocation Assistance Payments

Under certain circumstances, Section 17975 requires an owner (or their designated agent) to pay monetary relocation assistance benefits to a tenant who is displaced from a residential rental unit. The displacement must be caused by an order to vacate from a local enforcement agency due to immediate health and safety concerns. Sec. 17975. The local enforcement agency may include the city or county

building department, health department, environmental agency, or fire department. 17960 et seq. The local enforcement agency determines the eligibility of tenants for benefits. Sec. 17975.

The owner is not required to make the payments if the tenant, or the tenant's guest or invitee, caused or substantially contributed to the uninhabitable condition; or, where the condition was caused by a natural disaster or event beyond the control of the owner and the owner did not cause or contribute to the condition. Sec. 17975.4(a)-(b).

If conditions requiring payment are met, the owner is required to pay to the tenant the following amounts, payable on a per residential unit basis:

- i. A sum equal to two months of the established fair market rent for the area as determined by the Department of Housing and Urban Development; plus
- ii. An amount sufficient for utility service deposits as determined by the local enforcement agency; plus
- iii. The return of any security deposit held by the owner.

Sec. 17975.2.

The owner must make the payment within the timeframes set by law – e.g., 10 days after the order to vacate is mailed – or will be liable to the tenant for an amount equal to one and one-half times the benefits payable. Sec. 17975.3.

The relocation payments under section 17975 are cumulative (in addition) to any other relocation benefits that the tenant may be entitled to under law. Sec. 17975.7. For example, San Rafael Municipal Code Chapter 10.111 requires, in certain circumstances, landlords to pay relocation assistance benefits to residents of rental housing who are displaced from their residences due to no fault terminations of their tenancies when the property is located in Census Tract 1122.01 -- a Qualified Opportunity Zone.

B. City-Permitted Relocation Assistance Advancements

Section 17975.5(a) permits an agency to advance payments on behalf of the owner if the owner fails, refuses, or neglects to pay the above-required relocation payments. If the agency advances such payments, pursuant to a locally adopted policy, the agency is entitled to recover from the owner, payable on a per residential unit basis:

- i) any amount paid to a tenant, plus
- ii) a penalty in an amount equal to the sum of one-half the amount so paid, not to exceed \$10,000, plus
- iii) the agency's actual costs, including direct and indirect costs, of administering the provision of benefits to the displaced tenant.

Sec. 17975.5(a). Nothing in the law requires payment by the local enforcement agency – it is optional at the discretion of the agency. Sec. 17975.5(d).

C. Appeals

The local enforcement agency must provide for an appeals process. Sec. 17975.4. The owner has a right to appeal any benefits advanced by the agency that are charged to the owner, under procedures specified in section 17975.5(c).

POLICY

Residential tenants in the City of San Rafael who are displaced from their home due to immediate health and safety concerns may experience difficulties in finding affordable, temporary housing while their home is being repaired, and/or difficulties in finding other permanent affordable housing. Such

difficulties may create a financial hardship for the displaced tenants. Affected tenants may require shelter, public health, transportation, storage and other services on an interim basis, due both to the health impacts of unsafe or hazardous housing, as well as unanticipated needs occasioned by eviction.

It is the policy of the City Council of the City of San Rafael that property owners who allow their residential units to become unsafe or hazardous should bear responsibility for the hardship their actions create when tenants are required to vacate the premises. The intent of the policy is to ensure that owners provide relocation assistance to tenants who are displaced from their homes when the uninhabitability is caused or contributed to by the owner (or agent of the owner), and for assistance to be provided to tenants in a manner that is equitable to the tenant, the property owner, and the public at large.

A. Authority Designated to City Manager

The City Manager will have the authority to implement this policy by making reimbursable advancements to tenants entitled to relocation benefits under section 17975 when the owner fails, neglects, or refuses to pay such benefits. The City Manager must then seek reimbursement from the owner, and may enforce such action against the owner, including placing a lien against the property. The City Manager is also authorized to hold administrative appeal hearings.

Except as otherwise may be provided under the law, the City Manager will exercise such authority pursuant to this policy and at their discretion on a case-by-case basis, considering the unique circumstances of each event.

B. City Advancement of Relocation Benefits

The City Manager may use City funds to make advancement payments of relocation benefits when the owner fails, neglects, or refuses to pay relocation payments to displaced tenants. The City Manager does not have the authority to make non-reimbursable City payments under the conditions specified in section 17975.4(c).

The following circumstances must be met to make advance payments:

1. The City Manager may only make advancements to tenants of multi-family, multi-unit structures.
2. Before advancing any City payments, the City Manager must ensure the availability and source of City funds to advance any payments. The City Manager is not permitted to make any advancements that do not have an identified source and appropriations authority. If the total amount of assistance benefits for any one event exceeds the City Manager's purchasing authority (currently at \$75,000), the advancements must be approved by the City Council in accordance with City purchasing policy.

Factors that the City Manager may consider in determining whether to advance relocation benefits include, but are not limited to:

- Number of tenants and units affected, with a requirement for multi-family, multi-unit structures;
- Total amount of benefit payments;
- The owner's good faith actions to comply with section 17975 and the City's orders;
- The owner's ability to reimburse the City, including any insurance proceeds available to the owner to cover the payments;
- The likelihood of recovery of payments made, and penalties and costs from the owner;
- Administrative costs encumbered by the City, including any attorneys' fees and litigation costs; and

- Whether tenant(s) have received or are entitled to receive other payments or benefits from the owner, Federal government, State, County or other source (e.g., see San Rafael Municipal Code Chapter 10.111 for Qualified Opportunity Zone relocation assistance).

C. City Reimbursement Action Against Owner

The City Manager must seek reimbursement from the owner. The City Manager will send the owner an itemized accounting of all benefits paid by the City to the tenants and any penalties or costs the City is seeking. Sec. 17975.5. The City Manager is authorized to take any action permitted by law to collect from the owner the benefits advanced by the City and penalties and costs, or impose a lien therefore.

Before seeking reimbursement from any owner, the City Manager must first explore the potential of using funds from any available federally-funded program that provides tenant relocation assistance in cases of local code enforcement activities. See, sec. 17975.10.

D. Appeals

1. Appeal of Order to Pay Relocation Benefits

An owner who is in receipt of a City order to pay relocation benefits may appeal to the City to contend that not all of the benefits are chargeable to the owner because the recipients were not displaced tenants, no benefits were payable pursuant to Section 17975.4, or on other grounds. The owner must submit a written appeal to the City Manager within 10 days of receipt of the order. If the City does not elect to advance the ordered relocation payments, the City Manager, or their designee, will hold a hearing on the appeal within 5 business days of receipt of the appeal, and will give the owner at least 2 days' written notice of the time of the hearing. The decision by the City Manager or their designee on the appeal will be final. If the City elects to advance the relocation payments, the City Manager will take no action on the appeal and the owner will have the right to appeal the City's demand for reimbursement, as described below.

2. Appeal of Demand for Reimbursement

An owner who is in receipt of an itemized accounting from the City seeking reimbursement of advance relocation payments and any penalties or costs, may appeal to the City to contend that not all of the benefits are chargeable to the owner because the recipients were not displaced tenants, no benefits were payable pursuant to Section 17975.4, or on other grounds. The owner must submit a written appeal to the City Manager within 20 days of receipt of the itemized accounting. The City Manager, or their designee, will hold a hearing on the appeal within 30 days of receipt of the appeal, and will give the owner at least 10 days' written notice of the time of the hearing. An owner aggrieved by any decision of the City Manager with respect to the demand for reimbursement of relocation payments and any penalties or costs may appeal to the City Council by filing a notice of appeal with the clerk of the Council within 15 days after receipt of written notice from the City Manager. The Council will then fix a time and place of hearing such appeal. The final decision of the City Council will be subject to section 1094.5 of the Code of Civil procedure. If the owner fails to obtain a more favorable decision than that set forth in the itemized accounting, the owner will be liable to the City for the costs of the administrative hearing and appeal, not to exceed \$5,000. See, sec. 17975.5(c).