



**City of South Pasadena
Planning and Community
Development Department**

Memo

Date: January 12, 2021

To: Chair and Members of the Planning Commission

From: Joanna Hankamer, Planning & Community Development Director

Re: Additional Document No. 1 for Item No. 2 – Tenant Protection Ordinance

Two (2) written public comments have been received for this project from the following people:

1. Edward J. Elsner, Attorney, Bet Tzedek
2. John Srebalus, South Pasadena Tenants Union

Both written comments received are attached to this document.

Attachment:

1. Written Public Comments

Dear Planning Commissioners,

I and other tenant advocates have been working for months to pass the ordinance shoring up tenant protections related to "substantial remodeling." We have been under the impression since the last City Council meeting that the Planning Commission supports this measure, which was bifurcated at the last City Council meeting from the issue of tenant relocation assistance.

Now I learn that our ordinance is again before you for consideration. We have put months of advocacy into this effort, and now it appears we must fight our fight on two separate fronts. We are grassroots advocates with families and job responsibilities. Why must we chase a moving target?

Unless you plan to formalize your prior-expressed support for the substantial remodel ordinance, I ask that you leave it in the arena of the City Council, where the full and complete discussion among city staff, electeds and all stakeholders has taken place over several occasions.

Thank you for your expressed support for this important tenant protection.

Sincerely,
John Srebalus
South Pasadena Tenants Union

Dear Chair Braun and Commissioners Dahl, Lesak, Padilla, and Tom:

Attached for your consideration is a public comment that was previously submitted to the City Council suggesting clarifying edits to "substantial remodel" urgency ordinance that the Council approved on November 4, 2020. The same suggestions apply to the draft ordinance before you this evening:

- The draft ordinance is unclear as to when copies of the building permits and the written detailed account of the scope of work must be provided to the tenant. The ordinance should clearly state that the building permits must be provided at the same time as the notice of termination of tenancy is served on the tenant, and the detailed account of the scope of work must be stated in the notice of termination itself.
- The written detailed account of the scope of work should explain why the tenant must vacate the rental unit for at least 30 days, not why the work cannot be completed within 30 days (which is not the applicable standard under the state Tenant Protection Act).
- The phrase "No...just cause' eviction for 'substantial remodel' or demolition shall be effective unless..." could be restated more clearly as prohibiting substantial remodel evictions unless the specified conditions are met, with eviction defined as including the service of a notice of termination of tenancy and the filing and prosecution of an unlawful detainer action based on such notice.

Near the bottom of the second page of the attached public comment, there is suggested language that addresses the above concerns.

Thank you again for your consideration and for your service on the Planning Commission.

Edward J. Elsner
Attorney



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From: Ed Elsner [REDACTED] >
Sent: Sunday, November 1, 2020 11:03 AM
To: Joanna Hankamer <jhankamer@southpasadenaca.gov>
Cc: Sean Joyce <sjoyce@southpasadenaca.gov>; Lucy Demirjian <ldemirjian@southpasadenaca.gov>;
CCO <cco@southpasadenaca.gov>
Subject: Letter in Support of Temporary Eviction Moratorium (Resending with Attachment)

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Dear Ms. Hankamer,

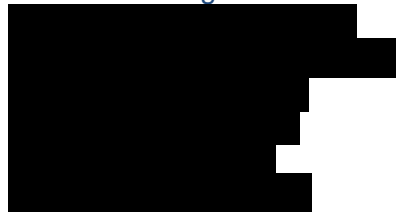
Attached please find correspondence in support of the proposed temporary moratorium on "substantial remodel" evictions, including suggested revisions to help achieve the goals of the proposed ordinance and also to help ensure that it is enforceable.

Thank you and the City Council for considering this important protection for South Pasadena tenants.

Edward J. Elsner
Attorney



Bet Tzedek Legal Services



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November 1, 2020

Joanna Hankamer, Director
Planning and Community Development
Planning and Building Department
City of South Pasadena
1414 Mission St.
South Pasadena, CA 91030
VIA EMAIL (jhankamer@southpasadenaca.gov) ONLY

Re: Urgency Ordinance Establishing a 45-Day Moratorium on “Substantial Remodel” Evictions (Item no. 13, City Council Regular Meeting, November 4, 2020)

Dear Ms. Hankamer:

I'm writing to express support for the proposed urgency ordinance establishing a temporary moratorium on residential evictions based on demolition or substantial remodeling, as set forth at pages 13-7 through 13-10 of the [agenda packet](#) for the regular City Council meeting on November 4th. My office represents several South Pasadena tenants who would be protected by the ordinance and who are thankful for the City's consideration of the ordinance.

I would also like to suggest clarifying language that would help discourage bad faith claims of substantial remodeling as a pretext to evict tenants in good standing, and also ensure that the temporary moratorium is enforceable.

As written, Section 2. of the draft ordinance is a bit unclear about when the landlord must obtain building permits and provide copies of the issued permits and details about the scope of work. Clarity about timing will help deter bad actors and ensure that tenants are given meaningful information at the earliest opportunity (i.e., when the termination notice is served).

To that end, the first suggestion is to clarify that the landlord must obtain building permits before serving the notice of termination of tenancy; that the landlord must serve copies of the issued permits along with the notice; and that details about the scope of work must be stated in the notice itself.

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Second, it would help to state that the temporary moratorium broadly applies to all notices of termination of tenancy based on demolition or substantial remodeling, and all unlawful detainer actions based on such notices, if a judgment for possession has not yet been entered in court.

Third, the draft ordinance requires the landlord to provide written details of “why the [demolition or substantial remodeling] work cannot be completed within 30 days.” However, the applicable standard is not how long it will take for the work to be completed, but whether the work “requires the tenant to vacate the residential real property for at least 30 days.” [Civ. Code §1946.2\(b\)\(2\)\(D\)\(ii\)](#).

Fourth, under the recently-enacted [COVID-19 Tenant Relief Act of 2020](#), evictions based on demolition or substantial remodeling are currently permitted only if necessary to maintain compliance with laws governing the habitability of residential rental units. [Code Civ. Proc. §1179.03.5.\(a\)\(3\)\(A\)\(ii\)](#).¹ The proposed ordinance should expressly incorporate this significant restriction.

Last, the just cause eviction provisions of [AB 1482](#) (as set forth in [section 1946.2](#) of the Civil Code) should be adopted word-for-word in the urgency ordinance.² This is because (1) residential real property cannot be subject to both a local just cause ordinance and section 1946.2, and (2) a local ordinance which is less protective than section 1946.2 “shall not be enforced unless [section 1946.2] is repealed.” [Civ. Code §§1946.2\(g\)\(2\), \(3\)](#). Adopting AB 1482’s just cause eviction provisions would not be controversial, as these provisions already apply by default in South Pasadena in the absence of a local just cause ordinance.

The following is a suggested revision of the temporary eviction moratorium (i.e., Section 2. of the proposed urgency ordinance):

Section 2. Owners of residential real property shall not evict any tenant within the City of South Pasadena based on intent to demolish or to substantially remodel the residential real property, as defined in subparagraph [section 1946.2\(b\)\(2\)\(D\)](#) of the Civil Code, unless:

(a) The demolition or substantial remodeling is necessary to maintain compliance with applicable laws governing the habitability of residential rental units, including but not limited to [section 1941.1](#) of the Civil Code;

¹ The habitability restriction is in effect through January 31, 2021. [Code Civ. Proc. §1179.03.5\(a\)](#). It should also be noted that the COVID-19 Tenant Relief Act of 2020 extends AB 1482’s just cause eviction protection to all residential tenants through that date, without exception based on duration of occupancy or type of residential real property. [Code Civ. Proc. §§1179.02.\(h\), 1179.03.5.\(a\)\(3\)](#).

² See, for example, Long Beach Ordinance no. [ORD-20-2007](#). The Long Beach ordinance combined the AB 1482 provisions with the additional local protections, but it may be cleaner to adopt the AB 1482 provisions in one section of the proposed urgency ordinance and the temporary moratorium in another.

- (b) The owner has obtained all necessary permits for the demolition or substantial remodeling from all applicable government agencies;
- (c) Copies of all issued permits are attached to and served concurrently with the notice terminating the tenancy; and
- (d) The notice terminating the tenancy includes a detailed written statement of:
 - (1) The scope of the substantial remodeling or demolition work;
 - (2) Why the work cannot be reasonably accomplished in a safe manner with the tenant in place;
 - (3) Why the work requires the tenant to vacate the residential real property for at least 30 days; and
 - (4) Why the work is necessary to maintain compliance with applicable laws governing the habitability of residential rental units.

“Owner” and “residential real property” have the same meaning as those terms are defined at [section 1946.2\(i\)\(1\)](#) of the Civil Code.

“Evict” includes serving a notice of termination of tenancy, and filing and prosecuting an unlawful detainer action based on such notice.

The provisions of this section shall apply to all residential real property where a notice of termination of tenancy based on intent to demolish or to substantially remodel the residential real property has been served prior to, as of, or after the effective date of this urgency ordinance, but where a judgment for possession has not been entered in an unlawful detainer action as of the effective date of this urgency ordinance.

Thank you again for your consideration and for the City’s support of these important protections for South Pasadena tenants.

Sincerely,

Edward J. Elsner

Edward J. Elsner
Attorney

Cc: Sean Joyce, Interim City Manager (sjoyce@southpasadenaca.gov)
Lucy Demirjian, Assistant to City Manager (ldemirjian@southpasadenaca.gov)
South Pasadena City Council (cco@southpasadenaca.gov)