

September 15, 2021

MEMORANDUM

To: Sustainability and Renters Rights Committee
From: Asha Venkataraman, Analyst
Subject: TRAO Requirements for Units with Expiring Affordability Restrictions

On September 23, 2021, the Sustainability and Renters Rights Committee will discuss and possibly vote on Council Bill (CB) 120182, which clarifies that the requirements of the [Tenant Relocation Assistance Ordinance \(TRAO\)](#) apply to units with expiring rent or income restrictions. This memorandum provides background on TRAO, describes CB 120182, and provides next steps.

Background

TRAO is a program that allows low-income tenants, defined as tenants with household income at or below 50 percent of average median income (AMI), to receive assistance for relocating when they are displaced from their housing because of demolition, change of use, substantial rehabilitation, or removal of use restrictions. TRAO requires that a property owner obtain a relocation license and for eligible tenants, [state law](#) requires that the property owner and the City each pay half of the total assistance payment. Eligible tenants are paid \$2,000, adjusted annually for inflation. For 2021, this amount is \$4,232.

Currently, use restriction is defined as:

- Any Federal, State, or local statute, regulation, ordinance, or contract;
- That as a condition of receiving any housing assistance (including an operating subsidy, rental subsidy, mortgage subsidy, mortgage insurance, tax-exempt financing, or low-income housing tax credits);
- By an assisted housing development;
- Does one of the following:
 - Establishes maximum limitations on tenant income as a condition of eligibility for occupancy of the units within an assisted housing development;
 - Imposes restrictions on the maximum rents that may be charged for any of the units within the assisted housing development; or
 - Requires that rents for the units within an assisted housing development be reviewed by any governmental body or agency before the rents are implemented or changed.

When the housing assistance expires—for example, when a subsidy ends—the use restrictions (limits on income or rent, etc.) end as well. Removal of restrictions on maximum rent would allow property owners to raise rents to market-rate and for low-income tenants, this could result in unaffordable rent and prompt them to move.

Although the Seattle Department of Construction and Inspections (SDCI) currently enforces TRAO to include circumstances where affordability restrictions expire, recent disagreement by a property owner about the inclusion of expiring affordability restrictions within TRAO’s use restrictions and the property owner’s consequent responsibility to pay relocation assistance prompted SDCI to clarify the code through this legislation. In addition, the legislation is timely, as multi-family tax exemptions (MFTE)¹ will be at the end of their 12-year terms and about to expire in several buildings in Seattle, meaning that rent and income restrictions will end for multiple affordable housing units as well.

CB 120182

This legislation would amend TRAO in the ways described below.

1. Application of TRAO to expiring affordability restrictions

CB 120182 would update definitions to remove the term “use restrictions,” as it is unclear and vague, and would replace it with the term “rent or income restriction” throughout TRAO. The new definition is substantively the same as the definition provided above in the background section, though it no longer uses the term “assisted housing development,” as that is not a commonly used term in this context and adds more confusion than clarity. The term “assisted housing development” is also removed from the definitions section and anywhere it is used in TRAO.

2. Eligibility requirements

The legislation would also add language to make clear that in the case of removal of rent or income restrictions, the owner may not increase rent before obtaining a tenant relocation license. Language is also added requiring the property owner to apply for a tenant relocation license between six and ten months before removal of a rent or income restriction that would result in displacement of the tenant.

3. Remove duplicative exemption language

Currently, the code contains an exemption from TRAO for any units owned by the Seattle Housing Authority (SHA). However, applicable SHA units would be exempt from TRAO regardless of this language because of the exemption from TRAO for displacement in “[a]ny

¹ MFTE provides a tax exemption on eligible multifamily housing in exchange for income- and rent-restricted units. Property owners agree to set aside 20-25 percent of residential housing for income restricted tenants and restrict rent to affordable rather than market rates for up to 12 years (or longer, if the property owner chooses to extend the exemption).

dwelling unit for which relocation assistance is required to be paid to the tenants pursuant to state, federal_or other law.” SHA units normally qualify for assistance under federal programs. CB 120182 would remove the SHA exemption from the legislation to avoid duplication.

4. Enforcement requirements

CB 120182 would clarify that it is a violation of the law for tenants that have received relocation assistance to fail to vacate their units. The obligation to vacate is consistent with the requirements of just cause eviction related to demolition, substantial rehabilitation, or change of use in [SMC 22.206.C.1.h and i](#).

5. Technical amendments

The legislation would make various technical edits that add punctuation, conform code language to existing drafting conventions, and correct cross-references.

Lastly, please note that because this legislation clarifies the code to reflect how SDCI was already enforcing TRAO, SDCI does not currently need additional funds to provide relocation assistance to tenants vacating units with expiring MFTEs and higher rents. SDCI had already calculated the need to pay these amounts and the increase will be reflected in budget appropriations for subsequent years as more MFTEs expire.

Next Steps

If the Committee recommends the legislation be passed on September 23, Council will likely vote on CB 120182 on October 4, 2021.

cc: Esther Handy, Central Staff Director
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