

Director's Report and Recommendation Clarifying TRAO Requirements for Units with Expiring Affordability Restrictions

Background and Purpose

Tenant Relocation Assistance Ordinance (TRAO) provides relocation assistance to tenants with household incomes at or below 50% AMI when they are displaced from their rental unit because of development, substantial alteration, or removal of an affordability restriction. Per RCW 59.18.440, the City pays half of the relocation assistance and the other half is paid by the property owner. TRAO also provides additional protections to tenants facing displacement, including ensuring that tenants receive critical advance notice and time to safely rehouse.

When affordability restrictions end, property owners may increase rent for units occupied by low-income households to market-rate levels. To date, affordability restrictions have not ended for many restricted units in Seattle, but this will begin to change in late 2021 when several buildings that opted to participate in MFTE reach the end of their 12-year agreement.

Based on language in the existing TRAO code, the City has enforced TRAO requirements in units for which affordability restrictions ended, such as the Multifamily Tax Exemption (MFTE). However, after a property owner with an expiring MFTE agreement argued that TRAO did not apply, SDCI began work to clarify the TRAO code for properties with expiring affordability requirements.

Proposal

SDCI proposes one ordinance amending TRAO so that provisions clearly apply to units where affordability restrictions are ending ensuring that low-income households who need to move are eligible for relocation assistance. The ordinance addresses:

- *Technical Edits* – standardizes the ordinance with current drafting conventions such as word-by-word alphabetizing of definitions, cross-reference code clarifications, grammatical and technical language edits.
- *Definitions* – updating definitions and providing new language so that TRAO clearly applies for tenants that need to move because a rent or income restriction is removed from a property.
- *Units owned by Seattle Housing Authority* – striking an exception for any dwelling unit owned by Seattle Housing Authority (SHA). This requirement is duplicative and SHA units would still be considered exempt under the exception that allows “*Any dwelling unit for which relocation assistance is required to be paid to the tenants pursuant to state,*

federal or other law.” SHA owned units typically qualify for relocation assistance under federal programs.

- *Eligibility Requirements* – clarifying language to identify that tenants are eligible for TRAO if they meet income threshold requirements and they move due to the rent or income restrictions being removed in addition to displacement that may occur from development activity. Previously, the ordinance allowed for TRAO to be triggered at the application of a permit but this bill clarifies the definition to include the expiration of rent or income restrictions.
- *Enforcement Clarification* – clarifying that tenants who do not vacate units after receiving relocation assistance are in violation of Chapter 22.210. The proposed change ties the obligation to have moved to out to the Just Cause Ordinance for substantial alteration, demo, or change of use which requires notice to vacate following the 90-day notice.

These changes must be incorporated into the Tenant Relocation Assistance Ordinance (SMC 22.210).

Analysis

Changes Proposed

Changes to the Tenant Relocation Assistance Ordinance (SMC 22.210) include amending the ordinance so that provisions clearly apply to units where affordability restrictions are ending to ensure that low-income households who need to move are eligible for relocation assistance. The current ordinance language is less than clear whether TRAO applies when income- and rent-restrictions expire and whether property owners may increase rent for units occupied by low-income households to market-rate levels without providing applicable relocation assistance benefits for the affected tenants. This bill makes clear that TRAO does apply when income and rent restrictions expire.

TRAO will be amended to clarify that a tenant relocation license is required before the removal of a rent or income restriction. These changes will prompt property owners with expiring affordability restrictions to complete the TRAO process with SDCI and identify tenants that may be applicable for relocation assistance. The definition of displacement is clarified to include tenants that move out because of the removal of a rent or income restriction from a dwelling unit.

With new tenant protections passed at the state level, clarifying language has been added so that if relocation assistance is provided under different laws those relocation benefits would be used unless such law requires the application of TRAO. Clarifying changes are also proposed to strike the exception for SHA owned units. This exception is duplicative since SHA owned units qualify under the exception for “*Any dwelling unit for which relocation assistance is required to be paid to the tenants pursuant to state, federal or other law.*” SHA owned units typically qualify for relocation assistance under federal programs.

A proposed change in the TRAO enforcement section will help solve a logical disconnect for tenants who are in violation of the code because they do not move after receiving a relocation assistance payment. The proposed change ties the obligation to have moved out to the Just Cause Ordinance for substantial alteration, demo, or change of use which requires notice to vacate following the 90-day notice.

Lastly, this bill proposes technical and grammatical changes to the existing ordinance to update the TRAO code to align with current drafting conventions.

Impact on Renters and Landlords

These changes will have positive effect on very low-income tenants in MFTE and other properties for which affordable housing covenants are expiring. Previously, the ordinance allowed for TRAO to be triggered at the application of a development permit but the proposed changes clarify the definition to include tenants who have to move because of the expiration of rent or income restrictions. Clarifying the eligibility requirements will guarantee that TRAO protections are available to these low-income tenants, will help stabilize these vulnerable households, and mitigate their risk of becoming homeless.

The table below shows a 5-year projection of upcoming expiring MFTE housing units:

| Year | Expiring MFTE Units | Estimated Households Eligible for TRAO |
|-------------|----------------------------|---|
| 2021 | 165 | 33 |
| 2022 | 185 | 37 |
| 2023 | 143 | 29 |
| 2024 | 343 | 69 |
| 2025 | 405 | 81 |

Currently, TRAO provides relocation assistance to tenants with household incomes at or below 50% AMI when they are displaced from their rental unit because of development. Under the proposed change, it will be clarified that landlords will be required to comply with the new eligibility requirements that include properties for which income or rent restrictions are expiring. Landlords with MFTE units will be required to get a TRAO license prior to the removal of the rent or income restrictions. Overall, this change will affect a small number of landlords. Under the state law, the City pays half of the relocation assistance and the other half is paid by the property owner. TRAO also provides additional protections to tenants facing displacement, including ensuring that tenants receive critical advance notice and time to safely rehouse.

Implementation of the Changes

The new legislation will require updating print materials, changing landlord training curriculum, changing web-based information, and developing an associated outreach campaign. This work

can be folded into existing work of the Renting in Seattle program, the Property Owner and Tenant Assistance group, and the Office of Housing at a negligible effort and cost.

SDCI will see a small increase in tenant complaints and inquiries. SDCI will also see a small increase in TRAO license applications from landlords and TRAO applications for tenants that live in units where affordability restrictions are expiring to be screened for eligibility. No additional staffing or resources are being requested to implement the proposed changes.

Recommendation

The SDCI Director recommends that the City Council adopt the proposed ordinance.