

September 15, 2021

MEMORANDUM

To: Sustainability and Renters Rights Committee
From: Asha Venkataraman, Analyst
Subject: Council Bill 120173: Economic Displacement Relocation Assistance

On September 21, 2021, the Sustainability and Renters Rights Committee will discuss and possibly vote on [Council Bill \(CB\) 120173](#), which would require landlords pay relocation assistance to tenants who move out of a housing unit because of a rent increase of ten percent or more. This memorandum describes the contents and impacts of CB 120173, including fiscal and staffing impacts, and next steps.

CB 120173

This legislation is intended to provide relocation assistance funds to tenants if they cannot afford a rent increase of ten percent or more to help the tenant relocate to a new place to live. When a landlord does raise the rent ten percent or more, and the tenant leaves the rental unit, CB 120173 would require a landlord to pay relocation assistance to the tenant to help cover expenses like a new security deposit, first and last months' rent, or moving expenses.

Definitions

There are myriad ways in which different combinations of people can occupy one rental housing unit and split housing costs between them, including different abilities to manage rent increases. Because of this, not all tenants in one housing unit may choose to relocate upon receiving a rent increase of ten percent or more. As such, referring to individuals as tenants within the legislation is not a sufficiently specific way to determine the amount of relocation assistance for which each set of tenants is eligible. To account for this complexity, CB 120173 includes specific definitions to encompass individual tenants or groups of tenants, distinguished by membership in a family or non-family household, that would be eligible for relocation assistance. These terms are defined as follows:

- **Household** is defined as "any family household or non-family household that occupies a housing unit. A combination of family households and non-family households may occupy a single housing unit."
- **Family household** is defined as "all occupants in the same housing unit who are members of the same family unit."
- **Family unit** is defined as "all related persons, including: parents; spouses' parents; grandparents; spouses' grandparents; grandchildren; spouses' grandchildren; siblings; spouses' siblings; siblings' spouses and siblings' children; and those similarly related to individuals in city or state registered domestic partnerships."

- **Non-family household** is defined as “occupants of a housing unit who are not members of a family household.”

Having different households within one housing unit who make different decisions about relocating and applying for relocation assistance also complicates administration of this program. To make clear which members of which households are included when applying for assistance and to avoid involving the City in intra-household disputes about whether and how relocation assistance should be distributed, each household eligible for economic displacement relocation assistance must designate a household representative to apply.

- **Household representative** is defined as “the household member designated by the household as the person representing the household in performing actions under this Chapter 22.212, and who is the person legally entitled to obtain the payment authorized by this Chapter 22.212. A household representative may represent only one household at a time.”

The legislation and the rest of this memorandum refers to the eligibility of the household itself when discussing meeting the appropriate qualifications for assistance but refers to the actions of the household representative on the household’s behalf within the context of the application process, entitlement to funds, and other administration and enforcement processes. In some cases, if the household representative fails to take certain actions, such as adhering to timelines for applications or extensions, both the household’s eligibility and the household representative’s entitlement would be affected.

Lastly, because a rent increase of ten percent or more over the duration of the tenancy or previous 12-month period of the tenancy can occur either through one large increase or multiple cumulative increases, CB 120173 defines “required rent-increase notice” to include both types of increase.

- **Required rent-increase notice** is defined as “the notice required by subsection 7.24.030.A if it is: (1) a required rent-increase notice for ten percent or more; or (2) a required rent-increase notice for less than ten percent.”

The notice “required by [subsection 7.24.030.A](#)” refers to City law (which currently matches the [state provisions](#)) to provide 60 days’ prior written notice for any rent increase.

- **Required rent-increase notice for less than ten percent** is defined as “a required rent-increase notice for a one-time rent increase of less than ten percent, but where that rent increase, in combination with all other rent increases taking effect within either 12 months prior to the effective date of that rent increase or the household’s tenancy in the housing unit, whichever period is shorter, will result in a cumulative rent increase for the household of ten percent or more.”
- **Required rent-increase notice for ten percent or more** is defined as “a required rent-increase notice for a one-time rent increase of ten percent or more.”

Eligibility

Households who meet the criteria listed below would be eligible for economic displacement relocation. Eligible households are those who have:

- Received a 60-day notice of rent increase (as required by State and City law) and the rent increase is ten percent or more; and
- Either vacated the property or provided notice to the landlord that the household plans to vacate the property.

For the household to remain eligible for assistance, the household representative must comply with all timelines set out in the application process.

Application Process

The household representative must apply to the Seattle Department of Construction and Inspections (SDCI) within 180 days of receiving the required rent increase notice or 60 days after the rent increase goes into effect.¹ As explained above, the notice at issue could be either at the time the landlord is increasing the rent by ten percent or more, or the last in a series of required notices of rent increase under ten percent whose cumulative effect is a rent increase of ten percent or more.

If a household needs more time to apply for assistance, the household representative may request an extension. SDCI must grant a 60-day extension if the request is received within the original application period and SDCI determines there is good cause for the extension. Upon making the decision, SDCI must notify the household representative and the landlord whether it has granted the extension.

If the household representative does not apply or request an extension during the time period provided for application, the household representative is not entitled to receive relocation assistance and the household would no longer be eligible for assistance because the household representative failed to adhere to the appropriate timeline. The application would include:

- An affidavit identifying the date of vacation or a copy of the notice of vacation;
- A copy of the current rental agreement or proof of housing costs for the 12 months prior to the effective date of the required rent-increase notice or the term of the tenancy, whichever is shorter;
- Documentation of the rent increase; and
- The number of family and non-family households occupying the housing unit and the names of all members of each household.

¹ Though currently the City and State require 60 days' prior written notice, the Sustainability and Renters' Rights Committee is concurrently considering Council Bill 119585, which would extend the notice requirement to 180 days.

Within five days of receiving the application, SDCI would be required to notify both the landlord and the household representative of receipt.

If SDCI requests more information for the application to be complete, the household representative must provide that information within 30 days after receiving the request. If a household needs more time to provide the information, the household representative may request an extension. SDCI must grant a 30-day extension if the request is received within the original 30-day period and SDCI determines there is good cause for the extension. If the household representative fails to provide the information or request an extension within the 30-day period, the household representative is not entitled to receive relocation assistance and the household would no longer be eligible for assistance because the household representative failed to adhere to the appropriate timelines.

SDCI must, within ten days of receiving the completed application, review it and send its determination of whether the household is eligible for assistance (and the household representative is consequently entitled to assistance) and its calculation of the amount of assistance to the household representative and the landlord.

Either a landlord or a household representative may appeal SDCI's determination regarding whether a household representative is entitled to receive assistance. Notices of appeal would go to the Hearing Examiner.

Amount of economic displacement relocation assistance

SDCI would calculate the amount of assistance to which each household representative is entitled as follows:

1. Determine the average monthly housing costs for the housing unit, based upon either: the housing costs for the 12 consecutive months prior to the effective date of the required rent-increase notice; or if the tenancy has been for fewer than 12 months, the average monthly housing costs for the duration of the tenancy;
2. Identify the number of households that occupy the housing unit and divide the average monthly housing costs by the number of households, resulting in the average monthly housing costs per household; and
3. Multiply the average monthly housing costs per household by three.

Either a landlord or a household representative may appeal SDCI's calculation of assistance. Notices of appeal would go to the Hearing Examiner.

Payment of assistance and refunds

Within seven days of SDCI's decision, the landlord would be required to pay SDCI the amount identified in the decision notice. SDCI would then be required to pay the household representative the amount in the decision notice within 14 days after SDCI sent the notice.

If the household fails to vacate the unit on the date identified in the notice of vacation, rescinds its notice of vacation, or withdraws its application for assistance, the household representative must refund any assistance already received and SDCI must refund any payment the landlord has made. SDCI must refund the landlord the amount paid within ten days after SDCI receives the notice of failure to vacate, rescission of the notice of vacation, or withdrawal of the application for assistance. If the household representative has already been paid assistance, they are required to refund the payment to SDCI within ten days after the failure to vacate, rescission of the notice of vacation, or withdrawal of the application for assistance.

This section of the legislation is intentionally set up so that the obligation for SDCI to pay the household representative would occur regardless of whether the landlord has paid SDCI. Similarly, SDCI would be required to refund the landlord regardless of whether the household representative has refunded payment. Central Staff's understanding is that the intent of this requirement is to allow the tenant to receive assistance in a timely enough manner to provide funds needed for use in an imminent move and for the landlord to get cash back in pocket immediately, rather than having to wait for compliance. This requirement would have budget implications, as it would require SDCI having enough cash on hand to make payments or issue refunds in the instances where payments are not timely made to SDCI. Because this is a new program and the scale of assistance payments is not clear, the amount SDCI would need to make payments is difficult to ascertain.

In addition, failure of the landlord to pay or the household representative to refund assistance in a timely manner would be a violation of the law. For SDCI to be reimbursed appropriately in cases of non-compliance, it would have to pursue a citation or a notice of violation.

Administration and Enforcement

This section of the legislation gives SDCI the authority to adopt rules governing this program. It also establishes a separate account to which payments and refunds would be made. Any funds collected pursuant to fines, penalties, budget appropriations, or other funds given or granted to the City for this purpose would be deposited in this account. These funds would be used to pay or refund relocation assistance in circumstances where the landlord or household representative has not timely paid or refunded assistance, respectively, and SDCI is required to make payment anyway.

It would also make clear that receiving relocation assistance when a person is not actually entitled to it is a violation of the law.

Citations and Notices of Violation

CB 120173 provides SDCI the ability to pursue either citations or notices of violation (NOV) at its discretion. In general, the citation process works best when there are one-time violations and the NOV process works best when there are on-going violations. The legislation would also allow SDCI to issue warnings before issuing a citation or NOV if it a person's first violation.

Citations are often used for simple compliance issues or when it is the person's first violation. They can provide motivation for a party to comply by assessing an immediate penalty and placing the burden on the person responsible to contest the violation. If a person fails to pay the citation penalty, the penalty can be referred to collections, thereby damaging the person's credit rating. The immediate consequences and the harm to credit may motivate future compliance. When SDCI issues a citation, the person has the option of paying it, or mitigating or contesting the citation in front of the Hearing Examiner. The proposed penalty for the first citation would be \$1,000. The second and subsequent citations would be subject to a penalty of \$2,000 for each violation. Hearing Examiner decisions must be appealed by filing a writ of review in King County Superior Court.

The NOV process is more complex than the citation process and is best suited for on-going violations, repeat violations, or more complicated issues where the City wishes to compel an offender to take some specific act. SDCI must formally serve an NOV that summarizes the violation, sets forth the required action the landlord must take and gives a compliance due date. If the person complies by the due date, the matter is closed. If the person fails to comply by the due date, SDCI can refer the matter to the City Attorney's Office. The City Attorney's Office can then draft a complaint and file a lawsuit in Seattle Municipal Court.

Effective Date

The substantive provisions of CB 120173 would go into effect 180 days after the effective date of the legislation to allow SDCI time to stand up the staffing and infrastructure needed to administer and enforce this program. Though standing up the entire infrastructure may take nine months, SDCI estimates it would be ready to administer the program after six months.

Fiscal and Staffing Impacts

SDCI's administration of the relocation assistance program would include answering calls from tenants and landlords about their new rights; receiving and making determinations about applications; receiving payments from landlords and making payments to household representatives, including refunds, on the timelines set out in the legislation. Administering the program will require more resources and staffing capacity. The preliminary estimate to set up a new functionality for the current system (Accela) and associated IT infrastructure to handle applications and payments is \$1.25 million and will likely require between six and nine months for full functionality. As mentioned above, SDCI would likely be able to start administering the program after six months. However, this timing assumes that the six months would begin from the availability of funding. If, for example, the Council were to appropriate funds to stand up the needed infrastructure in the 2022 budget planning process, funds would not become available until January 1, 2022. In that case, SDCI would not be ready to implement this program until July 1. However, if the Executive were to execute a short-term interfund loan² to allow SDCI access to funds before January 1, standing up the needed infrastructure could happen sooner. The Council may want to consider how to time the effective date of this bill to ensure it matches funding availability so that SDCI has sufficient time to stand up the needed infrastructure.

The requirement to make assistance payments and issue refunds regardless of compliance by landlords or household representatives would require SDCI to have enough cash on hand to cover whatever amount is needed. Because this is a new program, no penalties have been assessed at this point, and the scale of assistance payments is not clear, the amount SDCI would need on the front end to make payments is difficult to ascertain. At program initiation, SDCI will need additional General Fund resources to cover payments. The Council may want to consider adding an initial amount of General Fund resources to the relocation assistance fund in the 2022 Adopted Budget or through a supplemental budget action in 2022 before the program begins and monitor the cash flow for the program. This would allow the Council to determine whether the penalties and payments provided by landlords will generate sufficient revenues to support this program or if ongoing General Fund resources will be needed.

In addition, to make determinations and collect information to complete applications, as well as ensure sufficient cashier capacity to get funds out the door on the timelines in the legislation, SDCI will need at least 1.5 FTEs for the code compliance team. The fully loaded cost for a full year of such positions is \$186,463. Depending on when SDCI will be ready to administer the program, the FTE costs could be to hire for half of 2022. Lastly, provision of notices and outreach materials in translated languages as required by the legislation will likely require \$20,000.

² [SMC 5.06.030.C](#) authorizes the City Finance Director to approve an interfund loan for up to 90 days; any extension or renewal of such a loan requires approval by ordinance.

Based on estimating caseload like cases heard under the tenant relocation assistance ordinance, the Hearing Examiner should be able to absorb additional cases for citations and appeals with its current capacity. However, if caseloads exceed 10-15 cases annually, they will need to reassess potential impacts on capacity and may require additional resources and staff.

Overall, to administer and implement this legislation, SDCI will need a total of \$1,270,000 in one-time funds for IT and outreach, between \$144,000 and \$186,000 to support 1.5 FTE for a partial or full year in 2022, and an ongoing \$187,962 starting in 2023.

Next Steps

If the Committee recommends the legislation be passed on its September 21 meeting, Council will likely vote on CB 120173 on September 27, 2021. If the Committee recommends passage at its next meeting on September 23, Council will likely vote on CB 120173 on October 4, 2021. Potential funding needs will likely need to be addressed during 2022 budget deliberations.

cc: Esther Handy, Central Staff Director
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