Legislation Details (With Text)

File #:	CB 118456 **Version:** 1	**Name:**	CB 118456
Type:	Council Bill (CB)	**Status:**	Retired
		In control:	City Clerk
On agenda:	9/15/2015		
Final Action:		**Ord. No.**	
Title:	AN ORDINANCE relating to the payment of relocation assistance to displaced tenants; establishing requirements for residential tenancies; establishing regulations about penalties and the issuance of building permits for violators of the Tenant Relocation Assistance Ordinance; amending Sections 7.24.030, 22.204.200, 22.210.030, 22.210.140, 22.210.150, and 22.210.180 of the Seattle Municipal Code (SMC); amending Section 106.6.3 of the 2012 Seattle Building Code; amending Section R105.6.3 of the 2012 Seattle Residential Code; and adding a new Section 22.210.136 to the SMC.		
Sponsors:	Mike O'Brien		
Indexes:			
Attachments:	1. Summary and Fiscal Note, 2. Central Staff Memo (8/4/15), 3. Central Staff Memo (9/15/15), 4. Proposed Amendments (9/15/15)		

Date	Ver.	Action By	Action	Result
4/10/2017	1	City Clerk	Retired	
9/15/2015	1	Planning, Land Use, and Sustainability Committee	discussed	
8/4/2015	1	Planning, Land Use, and Sustainability Committee	discussed	
7/27/2015	1	City Council	referred	
7/9/2015	1	Council President's Office	sent for review	
7/7/2015	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the payment of relocation assistance to displaced tenants; establishing requirements for residential tenancies; establishing regulations about penalties and the issuance of building permits for violators of the Tenant Relocation Assistance Ordinance; amending Sections 7.24.030, 22.204.200, 22.210.030, 22.210.140, 22.210.150, and 22.210.180 of the Seattle Municipal Code (SMC); amending Section 106.6.3 of the 2012 Seattle Building Code; amending Section R105.6.3 of the 2012 Seattle Residential Code; and adding a new Section 22.210.136 to the SMC.

WHEREAS, RCW 59.18.440 authorizes any municipal corporation required to develop a comprehensive plan under RCW 36.70A.040(1) to enact a program providing reasonable relocation assistance to tenants earning 50 percent or less of Area Median Income (AMI), upon the demolition, substantial

rehabilitation, or change of use of residential property, or upon the removal of use restrictions in an assisted-housing development; and

WHEREAS, in 1990, The City of Seattle (City) passed the Tenant Relocation Assistance Ordinance (TRAO) because of the difficulty for low-income persons who are displaced by demolition, change of use, substantial rehabilitation, or removal of use restrictions from assisted housing to locate affordable substitute rental housing, and who also do not have sufficient time to save money for relocation costs or to find comparable housing when they are evicted as a result of such displacement; and

WHEREAS, since 2004, under the TRAO 1,325 low-income households have been assisted with relocation funds and time to move; and

WHEREAS, RCW 59.18.140 allows for a change in the amount of rent to become effective with thirty days written notice to each affected tenant upon completion of the term of the rental agreement; and

WHEREAS, TRAO does not provide for assistance or additional notice when tenants are displaced from housing as a result of rent increases; and

WHEREAS, tenants sometimes find that TRAO eligible renovation, demolition, or change of use is done after they have moved because of a rent increase and that they have, as a result, been deprived the relocation assistance and additional time to move they would have otherwise received; and

WHEREAS, under Seattle Municipal Code Section 22.210.180 the Department of Planning and Development (DPD) has the authority to collect penalties under TRAO if a permit applicant is untruthful by declaring vacant an occupied rental or harasses or intimidates a tenant into moving out and then applies for a demolition, renovation, or change of use permit; and

WHEREAS, DPD has had an increasing number of calls from tenants concerned about significant rent increases but there are no regulatory limits on the amount of a rent increase and enforcement of state and city regulations requiring proper notice for rent increases is a tenant responsibility; and

WHEREAS, the City finds it is in the public interest to protect and financially assist low-income tenants; and

WHEREAS, it is a hardship for low-income tenants to have to move without relocation assistance, and of the estimated 313,000 housing units in Seattle, only approximately 29 percent of them are affordable to people with incomes under 50 percent of AMI; and

WHEREAS, the City, tenants, and property owners have a shared interest in ensuring that the law is followed by all property owners who are required to provide relocation assistance to tenants;

WHEREAS, the Council finds that owners should pay relocation assistance to tenants who are displaced as a result of the owner's substantial rehabilitation of a dwelling unit regardless of whether permits are required from the City to accomplish the rehabilitation; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 7.24.030 of the Seattle Municipal Code, last amended by Ordinance 119171, is amended as follows:

A. Any rental agreement or renewal of a rental agreement for a residential rental unit in ((~~t~~))The City of Seattle entered into after the effective date of the ordinance adding this subsection 7.24.030.A shall include or shall be deemed to include a provision requiring a minimum of ((~~sixty~~ ~~(~~))60((~~)~~)) days prior written notice whenever the periodic or monthly housing costs to be charged a tenant is to increase by ((~~ten~~ ~~(~~))10((~~)~~)) percent or more over the periodic or monthly rental rate charged the same tenant for the same housing unit and same services for any period or month during the preceding ((~~twelve (~~))12((~~)~~)) month period.

B. No rental agreement entered into after the effective date of the ordinance codified in this ((~~e~~))Chapter 7.24 that creates or purports to create a tenancy from month to month or from period to period on which rent is payable, may:

1. Require occupancy for a minimum term of more than one ((~~(1)~~)) month or period;

2. Impose penalties, whether designated as "additional rent" or fees, if a tenant terminates the tenancy pursuant to law and vacates before expiration of any minimum term prohibited by subsection ((~~B(1) of this section~~))7.24.030.B.1;

3. Require forfeiture of all or any part of a deposit if the tenant terminates the tenancy pursuant to law and vacates before expiration of any minimum term prohibited by subsection ((~~B(1) of this section~~))7.24.030.B.1; provided, that nothing in this ((~~e~~))Chapter 7.24 shall prevent a landlord from retaining all or a portion of a deposit as compensation for damage to the premises as provided by law and the rental agreement or, as provided by law, for failure to perform other obligations imposed by the rental agreement.

C. If a rental agreement is a tenancy for a specified time and the tenant is not offered a new term lease 60 days prior to the expiration of the term, the tenancy shall convert to a month to month periodic tenancy by operation of law at the end of the fixed term. This subsection 7.24.030.C does not apply to any rental agreement entered into before the effective date of the ordinance adding this subsection.

Section 2. Subsection 22.204.200.I of the Seattle Municipal Code, which section was last amended by Ordinance 117942, is amended as follows:

I. "Substantial rehabilitation" means extensive structural repair or extensive remodeling that requires displacement of the tenant and either ((~~which~~)) requires a building, electrical, plumbing, or mechanical permit, or is valued at $6,000 or more((~~and which cannot be done with the tenant in occupancy~~)).

Section 3. Subsection 22.210.030.L of the Seattle Municipal Code, last amended by Ordinance 121276, is amended as follows:

L. "Substantial rehabilitation" means extensive structural repair or extensive remodeling that requires displacement of the tenant and either ((~~which~~)) requires a building, electrical, plumbing, or mechanical permit, or is valued at $6,000 or more((~~and which cannot be done with the tenant in occupancy~~)).

Section 4. A new Section 22.210.136 is added to the Seattle Municipal Code as follows:

22.210.136 Rent increase to avoid payment of relocation assistance

A. If a tenant has received a notice of a rent increase that the tenant believes is for the purpose of avoiding the payment of relocation assistance and makes a complaint to the Director, the owner must, within ten days of being notified by the Director of the complaint, file a certification with the Director stating that that

the rent increase is not for the purpose of avoiding the payment of relocation assistance. The failure of the owner to complete and file the certification is a defense for the tenant in an eviction action based upon the tenant's failure to pay increased rent.

Regardless of whether a certification is filed, the Director shall investigate the complaint and decide if the rent increase was made for the purpose of avoiding the payment of relocation assistance. A decision by the Director that the rent increase was for the purpose of avoiding the payment of relocation assistance constitutes a finding that the owner violated the provisions of this Chapter 22.210 requiring the payment of relocation assistance and unless reversed on appeal to the Hearing Examiner, subjects the owner to the penalties prescribed in Section 22.210.180.

There is a rebuttable presumption that a violation of the requirements of Section 22.210.050 has occurred if a tenant vacates a dwelling unit within 90 days of a rent increase, and the owner applies for a permit for a substantial rehabilitation, demolition, or change of use within 90 days of the tenant vacating; and

1. Within 30 days after the tenant has vacated, the owner does not list the dwelling unit for rent at the increased rental amount or more, or advertise it for rent at the increased rental amount or more in a newspaper of general circulation or rental website, such as HousingSearchNorthwest, Rent.com, Craigslist, or Zillow; or

2. Within 90 days after the dwelling unit was timely listed or advertised for rent as described in subsection 22.210.136.A.1 , the owner withdraws the unit from the rental market without having rented it; or

3. The dwelling unit was timely listed or advertised for rent as described in subsection 22.210.136.A.1 and maintained in effect as described in subsection 22.210.136.A.2, but the increase in rent was in excess of the amount necessary for a reasonable return considering all of the following:

a. The purchase price and terms of the transaction relied upon to establish the cost basis of the rental unit;

b. The increases and decreases since the last rent increase in the reasonable and necessary expenses of operation and maintenance of the building and rental unit;

c. The costs of capital improvements since the last rent increase;

d. Increases or decreases since the last increase in rent in necessary or desirable services furnished by the lessor that affect the vacating tenant, or any substantial deterioration of the premises since the last rent increase; and

e. Comparability of the rent with other rents in comparable buildings and areas of the City; or

4. The Director requested the owner execute a certification under subsection 22.210.136.A and the owner failed to follow the provisions of this Chapter 22.210 after signing the certification or failing to sign it.

B. The Director shall mail a copy of the Director's decision to the owner and to the tenant who made the complaint. The owner or the tenant may appeal the Director's decision to the Hearing Examiner within thirty days of the date of mailing of the Director's decision. The appeal shall be conducted pursuant to the procedures prescribed in subsections D through I of Section 22.210.150.

Section 5. Subsection 22.210.140.A of the Seattle Municipal Code, which section was last amended by Ordinance 118839, is amended as follows:

A. After the earlier of (1) the owner's application for a tenant relocation license; (2) the owner's application for a Master Use Permit necessary for demolition, change of use, substantial rehabilitation, or removal of use restrictions from a dwelling unit; or (3) the owner's application for a building permit necessary for demolition, change of use, substantial rehabilitation, or removal of use restrictions from a dwelling unit, the owner shall not evict any tenant except for good cause as defined in ((~~Section 22.206.160 <https://www.municode.com/library/wa/seattle/codes/municipal_code?nodeId=TIT22BUCOCO_SUBTITLE_IIHOCO_CH22.206HABU_SUBCHAPTER_VIDUOWTE_22.206.160DUOW> C, subsections 1a, 1b, 1c, 1g, 1h, li, ln, and 1p, of the Seattle Municipal Code~~))subsections C.1.a, C.1.b, C.1.c, C.1.g, C.1.h, C.1.i, C.1.n, and C.1.p of Section 22.206.160, and shall not, for the purpose of avoiding or diminishing the application of this ((~~e~~))Chapter 22.210, reduce the services to any tenant, or materially increase or change the obligations (((~~apart from the obligation to pay rent~~))) of any tenant.

Section 6. Section 22.210.150 of the Seattle Municipal Code, last amended by Ordinance 123899, is amended as follows:

22.210.150 Administrative appeals

A. Either an owner or a tenant may request a hearing before the Hearing Examiner to appeal ((~~a~~))determination concerning a tenant's eligibility for a relocation assistance payment((~~.~~)), ((~~Either an owner or a tenant may request a hearing before the Hearing Examiner~~))to resolve a dispute concerning the authority to institute unlawful detainer actions prior to issuance of the tenant relocation license required by Section 22.210.050((~~.~~)),((~~during the 90 day period after service of the notice required by Section 22.210.120.~~)) or to review a decision of the Director pursuant to Section 22.210.136 that the owner has or has not raised the rent to avoid payment of relocation assistance.

B. Appeals regarding eligibility for relocation assistance shall be filed within ten days after receipt of the Director's notice of tenant eligibility for relocation assistance~~.~~

C. A request for a hearing relating to authority to pursue unlawful detainer actions during the relocation period shall be filed prior to issuance of the tenant relocation license.

D. Appeals to review a decision of the Director pursuant to Section 22.210.136 that the owner has or has not raised the rent to avoid payment of relocation assistance shall be filed within ten days after receipt of the Director's decision.

E((~~D~~)). When the last day of the appeal period is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

F((~~E~~)). All requests for a hearing and appeals shall be in writing and shall clearly state specific objections and the relief sought. The appellant is ((~~shall~~)) not ((~~be~~))required to pay the Hearing Examiner filing fee set forth in Section 3.02.125

G((~~F~~)). Notice of the hearing shall be provided by the Hearing Examiner at least ten days prior to the scheduled hearing date to the tenant, the owner, the Director, and any other interested parties who have requested notice.

H((~~G~~)). A record shall be established at the hearing before the Hearing Examiner. Appeals shall be

considered de novo. The Director is ((~~shall~~)) not ((~~be~~)) a necessary party to any Hearing Examiner proceedings pursuant to this Section 22.210.150

I((~~H~~)). On the day it is issued, the Hearing Examiner shall provide the decision on the appeal to the tenant, the property owner, the Director, and all those requesting notice.

J((~~I~~)). The Hearing Examiner's decision is ((~~shall be~~)) final and conclusive unless, within ten calendar days of the date of the Hearing Examiner decision, an application or petition for a writ of review is filed in King County Superior Court. Judicial review shall be confined to the record of the administrative hearing. The Superior Court may reverse the Hearing Examiner decision only if the decision is arbitrary and capricious, contrary to law, in excess of the authority or jurisdiction of the Hearing Examiner, made upon unlawful procedure, or in violation of constitutional provisions.

Section 7. Section 22.210.180 of the Seattle Municipal Code, last amended by Ordinance 117094, is amended as follows:

A. In addition to any other sanction or remedial procedure which may be available, any person violating any provision of this chapter shall be subject to a cumulative civil penalty in the amount of ((~~One Thousand Dollars (~~))$1,000((~~)~~)) per day for each day from the date the violation began until the requirements of this chapter are satisfied, and if:

1. The violation resulted in a tenant who would have been eligible for relocation assistance not receiving it, the penalty shall be increased by the amount of the violator's share of the relocation assistance that should have been paid; or

2. The violation is for receipt of relocation assistance by an ineligible tenant or for failure to vacate pursuant to Section 22.210.160, the penalty shall be increased by the amount of relocation assistance received by the tenant.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney of the name of any person subject to the penalty, and the City

Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty.

C. Any tenant or person aggrieved by a violation of this ((~~e~~))Chapter 22.210 may institute a private action to enforce the obligations contained in this ((~~e~~))Chapter 22.210, provided, that this ((~~s~~))Section 22.210.180 does not create any right of action against the City or any City officer or employee ((~~thereof~~)), for the failure either to require any owner to pay relocation assistance or to pay tenants the amount of the owner's share with City funds. This section shall be retroactive to June 22, 1993.

D. In addition to any other penalty, sanction, or remedial procedure which may be available, if the Director determines pursuant to Section 22.210.136 that a violation of Section 22.210.050 has occurred, the owner shall not be issued a permit for a substantial rehabilitation, demolition, or change of use of the subject dwelling unit until the owner has paid to the City a penalty imposed pursuant to subsection 22.210.180.A.

Section 8. Section 106.6.3 of the 2012 Seattle Building Code is amended to read as follows:

106.6.3 Issuance of permit.

A. Subject to paragraph B, ((~~T~~))the *building official* shall issue a permit to the applicant, if the *building official* finds that the work as described in the *construction documents* satisfies the following:

1. It conforms to the requirements of this code and other pertinent laws, ordinances, and regulations and with all conditions imposed under any of them,

2. The fees specified in the *Fee Subtitle* have been paid, and

3. The applicant has complied with all requirements to be performed prior to issuance of a permit for the work under other pertinent laws, ordinances or regulations or included in a master use permit, or otherwise imposed by the *building official*.

When the permit is issued, the applicant or the applicant's authorized agent becomes the permit holder.

B. The *building official* shall not issue a permit if the owner of property that is the subject of the permit application has been issued a notice of violation regarding such property for failure to obtain a relocation license pursuant to SMC 22.210.050. The permit shall be issued if the owner has paid the penalty

imposed by SMC 22.210.180.A.

Section 9. Section R105.6.3 of the 2012 Seattle Residential Code is amended to read as follows:

R105.6.3 Issuance of permit.

A. Subject to paragraph B, ((Ŧ))the *building official* shall issue a permit to the applicant if the *building official* finds that the work as described in the *construction documents* satisfies the following:

1. It conforms to the requirements of this code and other pertinent laws, ordinances and regulations and with all conditions imposed under any of them,

2. The fees specified in the Fee Subtitle have been paid, and

3. The applicant has complied with all requirements to be performed prior to issuance of a permit for the work under other pertinent laws, ordinances or regulations or included in a master use permit, or otherwise imposed by the *building official*.

When the permit is issued, the applicant or the applicant's authorized agent becomes the permit holder.

B. The *building* official shall not issue a permit if the owner of property that is the subject of the permit application has been issued a notice of violation regarding such property for failure to obtain a relocation license pursuant to SMC 22.210.050. The permit shall be issued if the owner has paid the penalty imposed by SMC 22.210.180.A.

Section 10. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, do not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 11. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by

Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2015, and signed by me in open session in authentication of its passage this _____ day of _____, 2015.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2015.

_____

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2015.

_____

Monica Martinez Simmons, City Clerk

(Seal)