IMPARTIAL ANALYSIS OF MEASURE RR

BALLOT MEASURE AMENDING EXISTING CITY CHARTER RESTRICTIONS ON EVICTIONS FROM RENT CONTROLLED UNITS AND ADDING NEW CITY CHARTER PROVISIONS REQUIRING CAUSE TO EVICT TENANTS FROM NONRENT-CONTROLLED RENTAL UNITS

This measure would amend the City Charter by adding new requirements to Section 1806 of the Rent Control Law, which establishes the permissible causes for evictions from controlled rental units, and by adding a new article to the City Charter imposing the requirement that a landlord establish cause to evict a tenant from a nonrent-controlled rental unit.

The proposed amendments to Section 1806 would modify three of the permissible grounds for eviction. Specifically, as to an eviction based on a violation of a rental agreement requirement (other than the requirement to pay rent), a nuisance, or a refusal to grant the landlord access, the measure would add the requirement that the conduct has continued after service on the tenant of a written notice to cease. The notice to cease would have to state that a failure to cure might result in eviction, and it would have to be served a reasonable time before any notice terminating tenancy.

Additionally, the proposed amendments to Section 1806 would prohibit a landlord from evicting a tenant for owner occupancy if the tenant was certified as being terminally ill or if the tenant had resided in the unit for at least five years and was either at least 62 years old or disabled. However, a tenant in one of these categories could be evicted for owner occupancy if the landlord or relative who would occupy the unit was also in one of the categories.

The new City Charter article would specify permissible grounds for evicting a tenant from a nonrent-controlled rental unit. They would be the same as for evicting a tenant from a rent-controlled unit. Grounds for eviction would be limited to: nonpayment of rent; after service of a notice to cease, continued violation of the rental agreement (except the requirement to pay rent), continued nuisance, or continued refusal to grant access; owner occupancy; conviction for using the premises for illegal purposes; refusal, after written notice, to execute an extension of the rental agreement; subtenant holding over who had not been approved by the landlord; and removal of the property from the rental business.

The proposed new article contains the same limits on evictions of senior, disabled and terminally ill tenants for owner occupancy as the proposed amendments to the Rent Control Law. The remedies provisions authorize asserting the landlord's failure to comply as an affirmative defense in an unlawful detainer action and also authorize both civil and criminal enforcement. Specified types of units would be exempt from the new requirements.

The provisions on notices to cease are modeled on very similar provisions that were adopted by the voters in the City of Oakland and upheld by the Court of Appeal. Nonetheless, should this measure pass, litigation is likely.

/s/ Marsha Jones Moutrie, City Attorney

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