

Tenant Anti-Harassment Protections

Local policies and programs can strengthen tenants’ legal protections from unreasonable, abusive or coercive landlord behavior, which can be a tactic landlords use to influence a tenant to vacate a unit. Anti-harassment policies also support housing quality by reducing the risk of retaliation against tenants who report habitability issues to landlords. While state law prohibits landlords from using threats or intimidation for this reason, landlord harassment still contributes to informal evictions in the Bay Area.

Legal Context

[California Civil Code Section 1940.2](#) prohibits a landlord from using “force, willful threats, or menacing conduct” to influence a tenant to vacate a dwelling. The law also prohibits a landlord from threatening to disclose information regarding the immigration or citizenship status of a tenant, unless otherwise required by federal law. Tenants are entitled to up to \$2,000 per violation if they prevail in a civil action.

[California Civil Code Section 1942.5](#) prohibits a landlord from retaliating against a tenant for exercising their legal rights. Landlords who violate this prohibition are liable for actual damages, attorney’s fees, and punitive damages of up to \$2,000 per retaliatory act.

How Can Jurisdictions Implement Programs That Go Beyond State Law?

State law lacks specific language defining harassing behavior, which can make violations difficult to prove in court. Local anti-harassment ordinances can reduce displacement pressures and informal evictions by clarifying what constitutes harassment and retaliation and empowering tenants to stop it. Furthermore, jurisdictions can establish programs to provide legal and support services and provide proactive education for tenants and landlords. They can also ensure an accessible, safe and effective reporting process for tenants to report harassment or retaliation and support local and regional organizations providing tenant support services.

Most counties’ tenant legal services providers do not have sufficient resources to provide legal support to tenants with “upstream” issues like harassment and eviction defense and must prioritize the most urgent eviction cases. Jurisdictions can provide ongoing funding to legal services providers specifically for harassment and habitability cases to ensure tenants are protected.

At-A-Glance

RELEVANT STATE LAWS

[California Civil Code § 1940.2](#)

[California Civil Code § 1942.5](#)

POTENTIAL FUNDING SOURCE

General Fund

COST

Low

ADMINISTRATIVE BURDEN

 Medium

Staff capacity required for designing program, leading public and legislative processes and monitoring and enforcing program.

WHICH P?

Protection

POTENTIAL PARTNERS

- Property Owner Associations
- Nonprofit Service Providers
- Legal Aid Groups
- Tenant Advocacy Organizations



OPTION FOR TOC POLICY COMPLIANCE?

Yes!



Program Design, Implementation and Evaluation Considerations

The callout box below labeled “TOC Policy Requirements” describes the policy features necessary for a jurisdiction to receive credit toward TOC Policy compliance. All other policy features discussed in this document represent details found in existing policies on the subject and a jurisdiction may want to consider them when adopting or implementing a policy, but nothing is required for TOC Policy compliance unless noted as a requirement in the “TOC Policy Requirements” callout box or the [TOC Policy Administrative Guidance](#).

Elements of the Program

- Expanded and clarified protections for tenants
- Outreach, education and support for both property owners and tenants
- Funding for existing service providers and tenant access to legal services

Program Design Considerations

Jurisdictions may want to consider the following:

SUPPORT FOR EXISTING SERVICE PROVIDERS AND COMMUNITY ORGANIZATIONS: Providing support to existing legal aid groups and community organizations that provide legal assistance and tenant education to help protect tenants against harassment and retaliation. Leveraging existing service provider capacity can be an effective and efficient way of reaching both property owners and residents. These groups often have the experience needed to reach vulnerable populations and support jurisdiction-wide efforts.

ALIGNMENT WITH EXISTING LOCAL PROGRAMS: Ensuring the program aligns with existing programs for tenant support, landlord education and reporting, and legal services can reduce the administrative burden of program implementation.

Program Implementation, Administration and Enforcement

Tenant anti-harassment ordinances can define both harassing behaviors and mechanisms for enforcement. Jurisdictions can work with local

tenant advocates to design an ordinance that effectively addresses the most common forms of harassment and retaliation faced by tenants in the jurisdiction. Common harassing behaviors include:

- Withholding or threatening to withhold repairs or maintenance
- Efforts to prevent tenant organizing
- Refusal to accept or acknowledge receipt of rent payment
- Requesting information or documentation on immigration or citizenship status, unless otherwise required by federal law
- Interfering with the tenant’s right to quiet use and enjoyment of the rental unit, and/or verbally assaulting and harassing tenant;
- Removing tenant’s personal property from the rental unit
- Improperly accessing the unit
- Influencing a tenant to vacate through fraud, intimidation or coercion
- Threatening the tenant with physical harm

Jurisdictions can plan for services that tenants may need immediately by ensuring they have a designated staff contact, template letters to property owners, support for those facing eviction proceedings and information on local service providers and legal options.

Legal services are imperative to ensure vulnerable tenants are able to file complaints, and these services are not available to “lower priority” cases in many jurisdictions. Without access to legal services, tenant anti-harassment protections hold little weight.

Partnerships can help reduce the burden on staff capacity and department budgets, while increasing program reach. Nonprofit organizations, legal service providers and tenant advocacy groups are often already providing invaluable resources for vulnerable tenants.

Jurisdictions can, in conjunction with community organizations, provide ongoing and accessible education and outreach for both tenants and housing professionals. Property owners, realtors and lenders can also benefit from outreach designed to explain their rights and responsibilities under fair housing law, especially for independent “mom and pop” landlords who may have less information and education around the law. Additionally, jurisdictions can require landlords to inform tenants of their rights and support services. The jurisdiction can provide these notices as templates and can include contact information for local support services. Information sheets should use easy-to-understand language and be provided in multiple languages. They should be professionally translated and be accessible in other formats for non-reading or vision-impaired residents and landlords.

Effective enforcement is key to protecting tenants from harassment. At present, many jurisdictions don’t have the staffing capacity needed to respond promptly to complaints. Jurisdictions can ensure they have an easily accessible contact for tenants and that jurisdiction staff is trained to protect tenant information when a complaint is filed. Jurisdictions can also ensure that they have legal staff capacity to pursue legal action and a mechanism to enforce penalties. Jurisdictions can partner with staff from existing legal services and tenant assistance programs to design enforcement mechanisms that align with existing or planned legal services.

Program Evaluation

To evaluate program effectiveness, jurisdictions can analyze whether the number of harassment cases reported has increased after an ordinance has passed. They can also work with legal services providers to see whether the type, number and nature of complaints changes.



TOC Policy Requirements:

To comply with TOC policy, jurisdictions must:

- Adopt an anti-harassment policy that defines harassing behaviors, including behaviors prohibited by state law as well as:
 - Any behavior to prevent tenant organizing
 - Refusal to accept or acknowledge receipt of a rent payment
 - Requesting information or documentation on immigration or citizenship status, unless required by federal law
 - Withholding or threatening to withhold repairs or maintenance
- State in their policy that the city or county attorney as well as the impacted tenant may bring a civil action or request an injunction in response to harassment.
- Establish penalties for violations, including fines, attorneys’ fees and punitive damages. Define a violation of the ordinance as an affirmative defense for a tenant in an eviction proceeding.
- Establish noticing requirements for landlords to provide each tenant with an information sheet outlining anti-harassment protections and any other tenant protections in the jurisdiction. The sheet must include links to the city website and at least one local tenant legal services organization.

Complementary Policies

LEGAL ASSISTANCE FOR TENANTS: Legal assistance programs can ensure that tenants have legal support to address instances of harassment.

JUST CAUSE EVICTION PROGRAMS: Just cause eviction programs can work in tandem with tenant anti-harassment protections to prevent landlords from employing tactics to indirectly force tenants to leave, such as harassment or neglecting repairs.

FAIR HOUSING ENFORCEMENT: Both tenant anti-harassment protections and fair housing enforcement can guard against retaliation from a landlord who might try to evict or harass the tenant for asserting their rights.

This document is intended to provide general information and does not constitute legal advice. Additional facts, facts specific to a particular situation, or future developments may affect the subjects discussed in this document. Seek the advice of your jurisdiction's legal counsel before acting or relying upon this information. For specific questions regarding TOC compliance, please reach out to TOCpolicy@bayareametro.gov.

Other Resources

EXAMPLES*

[City of Emeryville - Eviction Harassment Ordinance](#)

[City of Richmond partners with nonprofit ECHO](#)

[City of Concord - Residential Tenant Anti-Harassment Protection Ordinance](#)

[City of Antioch - Tenant Anti-Harassment Ordinance](#)

OTHER RESOURCES

[Metropolitan Transportation Commission - Protection Policy 11: Tenant Anti-Harassment Protections](#)

**Note that examples have not been vetted for full TOC Compliance.*