



**DATE:** March 27, 2025

**TO:** Rental Housing Committee

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**SUBJECT:** Study Session—Tenant Antiharassment and Antiretaliation Protections

**PURPOSE**

To provide direction to staff on potential local residential tenant protections against harassment and retaliation, and to determine next steps.

**BACKGROUND**

The Rental Housing Committee's (RHC) Fiscal Year 2023-24 work plan includes holding a Study Session on retaliatory harassment. Since the enactment of the Community Stabilization and Fair Rent Act (CSFRA) in 2016 and the Mobile Home Rent Stabilization Rent Ordinance (MHRSO) in 2021, staff and RHC members have received information from CSFRA/MHRSO residents—particularly more vulnerable residents, including seniors, disabled persons, and undocumented residents—that they have experienced behaviors by landlords, property managers, and park owners, using certain methods, tactics, or behaviors, such as threats, coercion, fraud, misrepresenting information, or intimidation in the following examples, in order to:

- Interrupt, reduce, or terminate without cause the provision of Housing Services required by a tenant's lease agreement.
- Force existing tenants to agree to new material lease agreement terms that are not allowed under the CSFRA, MHRSO, or State Law.
- Avoid making necessary repairs and maintenance required by federal, state, county, or local housing, health, or safety laws.
- Avoid complying with notices or correcting violations issued by a Hearing Officer, the Rental Housing Committee, or the City in a timely manner.

- Evict tenants, such as by misrepresenting information, refusing to accept or acknowledge receipt of rent payment, preventing payment of rent, etc.
- Prevent tenants from forming or taking part in a Recognized Tenant Organization.

**A. What is “Harassment” and “Retaliation”?**

Staff reviewed federal, state, and local harassment and retaliation policies, which generally define harassment and retaliation as follows:

Harassment

Harassment is the use of certain methods or behaviors (by landlords, in this context), such as threats, coercion, fraud, or intimidation, to: (1) prevent a tenant’s exercise or assertion of their rights; (2) interfere with a tenant’s use and quiet enjoyment of the tenant’s rental unit (or the common areas or attendant services or amenities); or (3) generally make the tenant’s life difficult.

*Example:* A landlord may turn off the tenant’s water or electricity because they want the tenant to leave the unit so they can charge a higher rent. That would constitute harassment.

Retaliation

Retaliation is the use of certain methods or behaviors by a landlord against a tenant in response to the tenant exercising or asserting certain rights related to their rental unit, or tenancy.

*Example:* Retaliation occurs when a landlord turns off a tenant’s water and electricity as a response to the tenant complaining about substandard conditions in their rental unit.

Harassment and retaliation are related issues. They are conducted by landlords/property managers/park owners, and both types of behaviors negatively affect tenants. As such, it is recommended that the RHC consider addressing both types of behaviors if it wishes to adopt tenant protection measures.

**B. Existing Federal and State Laws**

There are federal and state fair housing laws that relate to discriminatory harassment and retaliatory behavior. These fair housing laws protect tenants from discrimination if the tenant is a member of a “protected category” (such as race, ethnicity, age, familial status). While fair housing laws do not reference or include categories of acts specifically defined

as “harassment” or “retaliation,” discrimination against a tenant because the tenant is a member of a protected category can include acts of harassment or retaliation.

As shown in Chart 1, not all acts of discrimination are acts of harassment/retaliation (Scenario 1), and not all acts of harassment/retaliation are discriminatory acts (Scenario 3); however, there is overlap between discrimination and harassment/retaliation (Scenario 2). To successfully claim harassment/retaliation under federal or state fair housing laws, tenants must: (1) be a member of a protected category to qualify the act under the federal/state antidiscrimination framework, which is Scenario 2; and (2) prove that the act was intentional. Proving intentionality can be a difficult, which can limit the efficacy of antidiscrimination laws in protecting against harassment and retaliation. Additionally, there are no federal laws that protect all tenants (not just those in protected categories) from retaliation and harassment.

**Chart 1: Relationship of Federal/State Antidiscrimination Laws and Harassment/Retaliation**

Scenario 1	Scenario 2	Scenario 3
Discriminatory Act, but <b>NOT</b> Harassment/Retaliation	Discriminatory Act <b>constituting</b> Harassment/Retaliation	<b>NO</b> Discriminatory Act but Harassment/Retaliation
Protected Categories	Protected Categories	Nonprotected Categories

Separate from federal and state fair housing laws, California landlord-tenant law does specifically prohibit retaliation against any tenant (not just in protected categories) who has exercised his or her rights under the landlord-tenant law, including providing notice to the landlord regarding habitability conditions or filing a complaint with an appropriate agency regarding “tenantability” (a property's condition being suitable for a tenant to live in, meaning it meets minimum standards of safety and livability) (California Civil Code 1942.5). California law also provides that reporting or threatening to report a tenant or individuals associated with the tenant to immigration authorities constitutes retaliation. Under California law, tenants may be entitled to damages if retaliation is found to have occurred.

However, the California landlord-tenant law is limited as to what actions constitute retaliation, has limited remedies, and does include provisions for harassment. Adoption of local regulations would provide additional protections to tenants for retaliatory acts occurring after a tenant has exercised its rights under the CSFRA or the MHRSO by expanding the category of rights exercised by a tenant that could be subject to retaliatory behaviors and providing additional remedies.

The City of Mountain View contracts with Project Sentinel to provide fair housing services related to the federal and state fair housing laws. When a tenant experiences harassment or retaliation based on discrimination of a protected category, Project Sentinel helps tenants with documenting incidents of discriminatory harassment or retaliation, educates them about their rights and available remedies, and, if necessary, helps file complaints with enforcement agencies such as the California Civil Rights Department or the U.S. Department of Housing and Urban Development. On average, Project Sentinel handles 10 cases per year for the City of Mountain View. In rare instances, Project Sentinel provides legal representation.

### **C. Local Laws**

Since federal and state laws provide limited protections related to discriminatory harassment/retaliation actions, a number of cities in California have adopted local measures providing antiharassment/antiretaliation protections to all tenants regardless of protected categories.

Staff conducted initial evaluation of comparable jurisdictions, which include seventeen (17) jurisdictions with rent-stabilization programs as well as local antiharassment and antiretaliation protections. Most local antiharassment and antiretaliation protections are adopted by ordinance and apply to all residential tenants in a city, regardless of protected categories under federal or state law, and regardless of whether the unit is subject to rent stabilization and/or just cause. Attachment 1 provides an overview of local rent-stabilized jurisdictions and whether they have adopted tenant antiharassment and antiretaliation protections. These laws do the following:

- Protect vulnerable residents, prevent involuntary displacement, and prohibit illegal evictions using fraudulent and/or misleading representations, intimidation, and coercive conduct.
- Apply to all tenants, regardless of whether they are a member of a protected class under state or federal law. Protection for all tenants removes the burden of having to prove that the harassing or retaliatory behavior was intentionally based on race, gender, national origin, etc.
- Provide clear definitions of what types of behaviors constitute retaliation/harassment, which can help tenants better understand their rights and landlords better understand their responsibilities.
- Provide additional enforcement mechanisms and remedies to tenants who experience harassment or retaliation, including making such behaviors an affirmative

defense to an eviction action, providing fines and penalties and allowing local jurisdictions to bring civil actions related to harassment and retaliation.

#### **D. Rental Housing Committee Authority**

The Rental Housing Committee has authority to adopt regulations that address harassment and retaliation as such provisions further the purposes of the CSFRA and the MHRSO. Generally, harassing or retaliatory behaviors are designed to either cause the tenant to move so the unit can be rerented, prohibit the tenant from exercising its rights, or to impose an unlawful rent increase on the tenant.

The purpose of the CSFRA is:

“To promote neighborhood and community stability, healthy housing, and affordability for renters in the City of Mountain View by controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring Landlords a fair and reasonable return on their investment and guaranteeing fair protections for renters, homeowners, and businesses.” (Article XVII, Section 1700)

Similarly, the MHRSO purpose is as follows:

“It is necessary to protect mobile home residents from unreasonable rent increases, while at the same time protecting the rights of park owners and mobile home landlords to receive a fair return on their property and rental income sufficient to cover increases in the costs of repairs, maintenance, insurance, employee services, additional amenities, and other costs of operation.” (Chapter 46, Section 46.1)

Additionally, the CSFRA and MHRSO both explicitly prohibit retaliation as follows:

“[N]o Landlord shall take action to terminate any tenancy or otherwise recover possession of a Rental Unit in retaliation for the Tenant reporting violations of this Article, for exercising rights granted under this Article, or for forming or participating in a Recognized Tenant Organization.” (CSFRA § 1705(d) (emphasis added)).

“[N]o mobile home landlord shall take action to terminate any tenancy or otherwise recover possession of a mobile home in retaliation for the tenant reporting violations of this chapter, for exercising rights granted under this chapter or for forming or participating in a tenant organization.” (MHRSO § 46.8(d) (emphasis added)).

Although the CSFRA and MHRSO do not include language specific to harassment, the ordinances do include language that provides the basis for the Rental Housing Committee to implement rules preventing harassing behavior:

***“No Landlord shall take action to terminate any tenancy, including, but not limited to, making a demand for possession of a Rental Unit, threatening to terminate a tenancy orally or in writing, serving any notice to quit or other eviction notice, or bringing any action to recover possession, or be granted recovery of possession of a Rental Unit unless at least one of the”*** enumerated just causes exists. (CSFRA—Article XVII, §1705(a) (emphasis added).

***“No mobile home landlord shall take action to terminate any tenancy, including, but not limited to, making a demand for possession of a mobile home, threatening to terminate a tenancy orally or in writing, serving any notice to quit or other eviction notice or bringing any action to recover possession or be granted recovery of possession of a mobile home unless at least one (1) of the”*** listed just causes is applicable. (MHRSO—Chapter 46, §46.8(a) (emphasis added).)

The “including, but not limited to” language in the above-referenced provisions of the CSFRA and the MHRSO indicates that the intent of both laws is not to prohibit only the actions expressly specified but also any other actions by landlords that could result in the “arbitrary eviction” of a tenant from their home. Because harassing behavior is often undertaken in order to get a tenant to leave, implementing protections against harassment to prevent arbitrary evictions aligns directly with the purpose of the CSFRA/MHRSO. Additionally, the reference to “threatening to terminate a tenancy orally or in writing” indicates that the CSFRA/MHRSO recognizes that harassing behavior such as threats is unlawful and should be prohibited. Finally, the intent of both the CSFRA and the MHRSO is to protect tenants from unreasonable rent increases and provide avenues for tenants to exercise their rights to enforce the protections as provided in the CSFRA and the MHRSO. The ability for tenants to exercise their rights free of harassment and retaliation is essential to ensuring that tenants receive the full protections of the CSFRA and the MHRSO.

Pursuant to both the CSFRA and the MHRSO, the RHC is authorized to “adopt rules and regulations for the administration and enforcement” of the Act and the Ordinance. (Article XVII, § 1709(d)(2); Chapter 46, § 46.9(a)(2)). The CSFRA and the MHRSO also require the RHC to “issue and follow such rules and regulations as will further the purposes” of the Act. (Article XVII, § 1709(e); Chapter 46, §46.9(a)(3)).

The RHC’s authority is limited to adopting regulations applicable to CSFRA- and MHRSO-covered tenants only. The City Council could adopt an ordinance that would apply to all tenants and that could include additional enforcement mechanisms including fines, but the RHC does not have that authority.

Tenant antiharassment and antiretaliation protections also align with the following City and Housing Department mission, road map, and goals:

- City of Mountain View Strategic Road Map:

“Community for All, to support Mountain View’s socioeconomic and cultural diversity, to engage and protect vulnerable populations through policies that promote access to housing, transportation and other programs and services.”

- City of Mountain View Housing Department Mission:

“To advance diverse, inclusive, and equitable communities by developing and implementing a wide range of housing policies and programs related to affordable housing, rent stabilization, and tenant protection.”

## **DISCUSSION**

The City has adopted a variety of policies and programs to protect the safety, health, and welfare of residential tenants, including the CSFRA, the MHRSO, and their Regulations; the Tenant Relocation Assistance Ordinance (TRAO); the Mountain View Mediation Program (MVMP); and the Housing Help Center. Adoption of antiharassment and antiretaliation regulations will provide additional tenant protections.

If the RHC directs staff to move forward with regulations for CSFRA/MHRSO tenants, staff will develop a work plan and include this on the Fiscal Year 2025-26 RHC work plan. Staff envisions that regulations would include, at a minimum, the following key components:

- Defining “harassment” and “retaliation.”
- Types of harassment/retaliatory behavior such as:
  - Quiet Enjoyment Disturbances.
  - Habitability Violations.
  - Misrepresentations.
  - Rent Payment Violations.
  - Privacy Violations.
- Noticing requirements
- Remedies and penalties

The process would involve analysis, further review of comparable jurisdictions, a Study Session and a meeting for RHC consideration to adopt tenant antiharassment/antiretaliation regulations.

**RHC QUESTIONS**

1. Is the RHC interested in developing antiharassment/antiretaliation regulations for tenants in CSFRA/MHRSO covered units?
2. If yes, does the RHC agree with the above proposed scope of work?

**NEXT STEPS**

If the RHC directs staff to move forward with tenant antiharassment and antiretaliation regulations for CSFRA/MHRSO tenants, staff would develop a work plan as mentioned above and estimates to be able to bring this item back to the RHC in fall/winter of 2025.

**FISCAL IMPACT**—This Rental Housing Committee Study Session has no fiscal impact.

**PUBLIC NOTICING**—Agenda posting, posting on the City’s website, and email to distribution list.

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Attachment: 1. California Rent Stabilized Jurisdictions and Antiharassment/Retaliation Policies