

M E M O R A N D U M

October 14, 2020

TO: Planning, Housing and Economic Development Committee

FROM: Amanda Mihill, Legislative Attorney

SUBJECT: Executive Regulation 10-20, Relocation Expenses – Regulations

PURPOSE: Worksession on Executive Regulation 10-20

Those expected to attend this worksession include:

- Aseem Nigam, Director, Department of Housing and Community Affairs
- Stephanie Killian, DHCA
- Rosie McCray-Moody, DHCA

Executive Regulation 10-20, Relocation Expenses – Regulations was submitted for Method (2) Council review on September 21, 2020. Executive Regulation 10-20 implements Bill 18-19, Landlord-Tenant Relations – Relocation Expenses. Bill 18-19 requires a landlord to pay a tenant relocation expenses if the tenant's housing is condemned as unfit for human habitation under certain circumstances and requires the landlord to give the tenant the right of first refusal to re-occupy the rental housing under certain circumstances.

Under Method (2) regulation the Council has 60 days to approve or disapprove the regulation. The Council can also extend time for action if it needs additional time to review the regulation. If the Council approves the regulation, the regulation takes effect upon adoption of the resolution approving it or on a later date specified in the regulation. Executive Regulation 10-20 was advertised in the June 2020 Montgomery County Register and no comments were received.

The Council has not received any comments on the regulation. Substantively, Executive Regulation 10-20 is consistent with Bill 18-19. A resolution to approve this regulation is on ©14.

This packet contains:

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Executive transmittal memorandum	11
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MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Relocation Expenses – Regulations	Number 10-20
Originating Department Housing and Community Affairs	Effective Date

Montgomery County Regulation on:

RELOCATION EXPENSES DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Issued by: County Executive
Regulation No. 10-20
COMCOR No. 29.35B.01

Authority: Code Section 29-35B
Council Review: Method (2) under Code Section 2A-15
Register Vol. 37 No. 6

Comment Deadline: 06/31/2020
Effective Date: _____
Sunset Date: None

Summary: This regulation implements County Code Section 29-35B, which requires a landlord to compensate a tenant that has been displaced if the tenant's housing is condemned as unfit for human habitation.

This regulation also appears on the Department of Housing and Community Affairs website at the following web address: <https://montgomerycountymd.gov/DHCA/housing/landlordtenant>.

Staff Contact: For further information or to obtain a copy of this regulation, contact Rosie McCray-Moody at rosie.mccray-moody@montgomerycountymd.gov or (240) 777-3612.

Address: Written comments on this regulation should be sent to:

Rosie McCray-Moody, Manager
Office of Landlord-Tenant Affairs
Department of Housing and Community Affairs
1401 Rockville Pike, 4th Floor
Rockville, MD 20852



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Subject
Relocation Expenses – Regulations

Number
10-20

Originating Department
Housing and Community Affairs

Effective Date

29.35B.01.01 General Provisions

- A. Authority. In accordance with the authority conferred under Chapter 29, Section 29-35B of the Montgomery County Code, 2014, as amended (hereinafter referred to as the "Code"), the County Executive hereby promulgates this regulation to implement County law pertaining to the rights of tenants who are displaced as a result of their housing being condemned as unfit for human habitation.
- B. Applicability. This regulation applies to all licensed or licensable rental housing in Montgomery County.

29.35B.01.02 Determination of Violation

If after inspecting a property the Director identifies a life and safety violation that warrants condemnation of the property under Section 26-13(b) of the County Code and determines that the violation cannot be cured within 30 days from the date of inspection, the Director must notify the landlord and the tenant of the Director's determination in writing within 24 hours after the inspection. The tenant must vacate the premises within 72 hours after the Director's posting of the condemnation. As used in this regulation, "life and safety violation" means any violation listed under County Code Section 29-22(b)(1) or any condition that satisfies the standards for condemnation under County Code Section 26-13(a).

29.35B.01.03 Permanent Displacement Compliance

- A. Within 72 hours after the posting of the condemnation, the landlord must :
1. Return a permanently displaced tenant's security deposit with required interest;
 2. Pay any pro rata rent for the remainder of the month of relocation to the permanently displaced tenant; and
 3. Pay to the permanently displaced tenant the greater of:
 - a) 3 months fair market value rent for a unit of comparable quality and size as established by the most current Federal Department of Housing and Urban Development schedule of fair market rents for the zip code of the rental housing being vacated; or
 - b) 3 months of the tenant's rent under the lease in force at the time of relocation.
- B. If the Department receives a complaint from the tenant, the Director must determine whether the payments made by the landlord comply with the requirements of subsection A.
- C. If the Director subsequently certifies the property as habitable, the landlord must immediately



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inform the previous tenant by written notice that the tenant has a first right to reoccupy the rental housing under the terms and conditions, including the term of the tenancy, in effect under the lease at the time of the posting.

29.35B.01.04 Temporary Displacement Compliance

- A. Within 24 hours after the posting of the condemnation, the landlord must:**
1. Provide comparable, safe, alternative housing for the temporarily displaced tenant and the tenant's belongings, including storage facilities if deemed necessary by the Department; and
 2. Pay the costs of the immediate relocation of the tenant and the tenant's belongings.
- B. If the Department receives a complaint from the tenant, the Director must determine whether the replacement housing provided under this Section is comparable in terms of quality and size to the rental housing.**
- C. If the replacement housing is not comparable to the rental housing, the landlord must pay the following allowance to the tenant:**
1. The greater of the fair market value rent for a comparable unit in terms of quality and size, as established by the most current United States Department of Housing and Urban Development schedule of fair market rents for the zip code of the rental housing being vacated or the tenant's rent at the time of displacement; the amount being multiplied by the proportion of 30 days represented by the displacement period and the result reduced by the costs paid for the non-comparable housing.
 2. Formulaically, the allowance is calculated by: $G*(DP/30) - C$, where G is the greater of the two rent amounts in paragraph 2, DP is the actual length of the displacement period, and C is the cost paid by the landlord for the alternative housing.
- D. At the end of the displacement period, the landlord must pay the cost to return the tenant and the tenant's belongings to the original rental housing if the tenant chooses to return.**
- E. The terms and conditions contained in the lease in effect at the time of the tenant's return to the original rental housing must be substantially similar to those contained in the lease that was in effect at the time of displacement, including provisions concerning the length of the lease term and the amount of rent due.**

29.35B.01.05 Proof of Compliance

The landlord must demonstrate its compliance with Section 29-35B of the County Code by providing to the Department a copy of the check or money order provided to the displaced tenant accompanied by a receipt signed by the tenant within 5 days after the displaced tenant vacates the rental housing.

29.35B.01.06 Alternative Arrangement



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- A. Instead of the tenant receiving the relocation payments required under Sections 29.35B.01.03 and 29.35B.01.04, the landlord and tenant may agree to an alternative arrangement if the alternative arrangement is:
1. of equal benefit to the tenant; and
 2. evidenced by a written agreement voluntarily created between the tenant and the landlord that satisfies the criteria in subsection B.
- B. The written agreement for an alternative arrangement must contain the following:
1. the names of the current occupants of the condemned rental housing;
 2. the address of the condemned rental housing;
 3. a statement indicating the amount of the relocation payment to which the tenant is entitled under subsection 29.35B.01.03 or 29.35B.01.04;
 4. a statement that the tenant has waived the right to the relocation payment;
 5. a description of the alternative arrangement; and
 6. the address, if known, of the location to which the tenant plans to move.

29.35B.01.07 First Right to Reoccupy

- A. If the landlord of a previous tenant that has been permanently displaced tenant cures the life and safety violations that resulted in the condemnation so that the property becomes habitable, has not surrendered its rental license to the Department, and chooses to continue renting the property, the landlord must send written notice by certified mail to the current address of the previous tenant informing the tenant that the rental housing has become habitable and is ready for occupancy and that the previous tenant has a first right to reoccupy the property. The notice must include the landlord's current address and a telephone number that can be used to contact the landlord. The landlord should also send a copy of the notice to the Department.
- B. The landlord should send a second notice to the previous tenant with a copy to the Department if the landlord does not receive a response to the notice provided under subsection A within 15 after sending the first notice. However, if the landlord is unable to locate the previous tenant after at least 2 attempts over a 2-week period and has provided the Department with a copy of all notices sent to the tenant under this Section, the landlord will be deemed to have fully complied with the requirements of this Section and the tenant's right to reoccupy will be forfeited..
- C. A permanently displaced tenant must notify the landlord of tenant's intent to reoccupy the rental housing within 15 days after the landlord notifies the tenant that the rental housing is ready to be reoccupied. The notice should be sent by certified mail to the address provided by the landlord with a copy to the Department. The tenant must then reoccupy the rental housing with 20 days after notifying the landlord of the tenant's intent to reoccupy the rental housing.



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29.35B.01.08 Exception

A landlord is not required to provide a relocation payment or a first right to reoccupy rental housing if the Director determines the rental housing is condemned due to events that are beyond the control of the landlord. The Director will make this determination at the time of the posting of the condemnation.

Marc Elrich
County Executive

https://mcgov.sharepoint.com/teams/DHCA/Housing/Landlord-Tenant/Shared Documents/Regulations/Executive Regulations/Bill 18-19 Relocation Expenses Reg 10-20/Relocation Expenses Regulations 10-20_Bikln.docx

APPROVED AS TO FORM AND LEGALITY

By:

Walter E. Wilson
Associate County Attorney

Date: 5/5/2020



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A handwritten signature in cursive script, appearing to read "Marc Elrich".

Marc Elrich
County Executive

APPROVED AS TO FORM AND LEGALITY

By:

A handwritten signature in cursive script, appearing to read "Walter E. Wilson".

Walter E. Wilson
Associate County Attorney

Date: 5/5/2020



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

MEMORANDUM

September 21, 2020

TO: Sidney Katz, President
Montgomery County Council

FROM: Marc Elrich
County Executive 

SUBJECT: Proposed Executive Regulation 10-20 for Bill 18-19
Relocation Expenses

The purpose of this memorandum is to transmit for the Council's approval, proposed Executive Regulation 10-20, Relocation Expenses, Implementing Bill 18-19. No suggested amendments were received. On January 14, 2020, Sidney Katz signed into Law Bill 18-19, Landlord-Tenant Relations – Relocation Expenses. This legislation amended Chapter 29 Landlord-Tenant Relations of the Montgomery County Code. This regulation requires a landlord to pay a tenant relocation expenses if the tenant's housing is condemned as unfit for human habitation under certain circumstances. It also requires the landlord to give the tenant the right of first refusal to re-occupy the rental housing under certain circumstances.

After the original submission, the Department of Housing and Community Affairs (DHCA) did not receive any comments or suggestions.

If you have any questions, please contact Rosie McCray-Moody, Manager, Office of Landlord-Tenant Affairs, DHCA, at rosie.mccray-moody@montgomerycountymd.gov or 240-777-3612.

ME:mmm

Fiscal Impact Statement
Executive Regulation 10-20, Relocation Expenses

1. Legislative Summary

Executive Regulation 10-20 implements the requirements enacted in Bill 18-19 for relocation expenses involved in tenant and landlord relations. Bill 18-19 was enacted in January 2020 and became effective on April 24, 2020. The law requires a landlord to pay temporary relocation costs to a tenant that, through no fault of the tenant, must vacate a rental property that has been condemned as unfit for human habitation. The tenant is also entitled to a right of first refusal to reoccupy the property once it becomes habitable. A landlord is not subject to these requirements if the condemnation is caused by events beyond the landlord's control.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

To implement the requirements in Bill 18-19, ER 10-20 provides certain new tenant rights as explained in Question #1. These new rights will have no impact on County revenues or expenditures. There are certain implicitly required housing code inspection and reinspection requirements; however, ER10-20 would not affect current housing code enforcement procedures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Per Question #2, ER 10-20 does not impact County revenues or expenditures.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable. ER 10-20 does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Not applicable.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

No additional appropriation is needed to implement ER 10-20.

10. A description of any variable that could affect revenue and cost estimates.

See Question #2.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

As explained in #1, ER 10-20 provides certain new tenant rights and does not carry a fiscal impact for the County.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Stephanie Killian, Department of Housing and Community Affairs

Rosie McCray-Moody, Department of Housing and Community Affairs

Pofen Salem, Office of Management and Budget



Richard S. Madaleno, Jr., Director
Office of Management and Budget

5/13/20

Date

Resolution No.: _____
Introduced: October 20, 2020
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY MARYLAND**

Lead Sponsor: Council President on behalf of the County Executive

SUBJECT: Approval of Executive Regulation 10-20, Relocation Expenses – Regulations

Background

1. On September 21, 2020 the County Council received Executive Regulation 10-20, Relocation Expenses – Regulations.
2. This regulation implements Bill 18-19, Landlord-Tenant Relations – Relocation Expenses, which requires a landlord to pay a tenant relocation expenses if the tenant's housing is condemned as unfit for human habitation under certain circumstances.
3. The Council must review the regulation under Method (2) of Section 2A-15 of the County Code.
4. Under Method (2), if the Council does not approve or disapprove a regulation within 60 calendar days after the Council receives the regulation, the regulation automatically takes effect.
5. On October 19, 2020, the Transportation and Environment Committee reviewed the proposed regulation and recommended approval with amendments.

Action

The County Council for Montgomery County Maryland approves the following resolution:

Executive Regulation 10-20, Relocation Expenses – Regulations is approved.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council