

Procedures for Withdrawing Occupied Units from the Rental Housing Market



This packet provides information, regulations and required forms related to City of Los Angeles requirements regarding the withdrawal of occupied units from the rental housing market. Please note that these regulations only pertain to rental units subject to the City’s Rent Stabilization Ordinance (Los Angeles Municipal Code, Chapter XV). **Should you have further questions, please contact the Los Angeles Housing Department (LAHD) at (866) 557-7368.**

<u>Packet Contents</u>	<u>Page</u>
Summary of Ellis Provisions of the Rent Stabilization Ordinance.....	2
Ellis Act Provisions: LAMC Sec. 151.22 -151.28.....	3
Steps for Withdrawing an Occupied Rental Unit from the Market	8
Ellis Flowchart.....	10

Attached Forms

- E1 – Memorandum Summarizing Non-Confidential Provisions of a Notice of Intent to Withdraw Units from Rental Housing Use
- E2 – Notice of Intent to Withdraw Units from Rental Housing Use
- E3 – Notice to Tenant of Pending Withdrawal
- E4 – Notice of Interest in Renewing Tenancy
- E5 – Notice to City of Claims for Extended Tenancy
- E6 – Notice to City of Extended Dates of Withdrawal
- E7 – Notice of Intention to Re-Rent Withdrawn Accommodations

SUMMARY OF ELLIS PROVISIONS OF THE RENT STABILIZATION ORDINANCE

California Government Code Section 7060 et seq., commonly known as the Ellis Act, establishes the right of landlords to withdraw existing housing accommodations, other than guestrooms or efficiency units within a residential hotel, from rent or lease. The Ellis Act does, however, allow local jurisdictions to adopt certain regulations controlling the withdrawal process, the return of withdrawn units to the rental market including penalties for return within two years, and the transfer of these constraints to successors in interest.

The City of Los Angeles (the City) has adopted regulations implementing certain Ellis provisions into the Rent Stabilization Ordinance (RSO) which are codified in Sections 151.22 through 151.28 of the Los Angeles Municipal Code. The key provisions of these regulations are summarized below.

A. Withdrawal Process

- Landlords must file a *Notice of Intent to Withdraw Units from Rental Housing Use (Notice of Intent)* with LAHD together with a copy of each related notice of termination that was served in accordance with California rental housing law.
- Landlords must record a memorandum with the County Recorder summarizing the non-confidential provisions of the *Notice of Intent* and provide LAHD with a copy of the recorded memorandum at the time the Notice of Intent is filed.
- Landlords must serve each tenant with a *Notice of Pending Withdrawal* within five days of filing the *Notice of Intent*. The notice to tenants must include an advisement on specific tenant rights.
- All tenants being evicted under an Ellis withdrawal are entitled to a minimum of 120 days notice from the date the *Notice of Intent* was filed with LAHD.
- Senior (62+) and disabled tenants are entitled to an extension of their tenancies up to 1 year, provided they notify their landlord within 60 days of the filing date of the *Notice of Intent*.
- Landlords may elect to extend the tenancies of other tenants up to 1 year.
- Extended tenancies must continue under the same terms and conditions as existed on the filing date of the *Notice of Intent*.

B. Return of Withdrawn Units to the Rental Market

- Landlords must file a *Notice of Intention to Re-Rent Withdrawn Accommodations* with LAHD and may not rent or lease any such unit, except to a tenant displaced from that unit, for a period of 30 days following the filing of that notice.
- Displaced tenants have a right of first refusal on the unit from which they were displaced for a period of 5 years after the withdrawal of that unit from the market, provided they request the offer in writing within 30 days after the landlord has filed the *Notice of Intention to Re-Rent* with LAHD.
- For a period of 5 years, the initial rent for that unit is restricted to the rent in effect at the time the *Notice of Intent* was filed plus any automatic adjustment allowed by the RSO. This 5-year period begins on the later of (1) the date a *Notice of Intent*

pertaining to a given rental unit was filed with LAHD or (2) the date of actual withdrawal of that rental unit. Once a *Notice of Intent* is filed, the initial rent is subject to this restriction regardless of whether the *Notice of Intent* is rescinded or the withdrawal is completed.

- Additionally, landlords who return accommodations for rent or lease within two years of the date of the withdrawal from the market must first offer the unit, via registered or certified mail, to the tenant or tenants displaced by the withdrawal, provided that the tenant or tenants advised the landlord, within 30 days of their displacement, of their desire to consider an offer to renew their tenancy.
- If a withdrawn rental unit is returned to the market within two years of the date of withdrawal, the landlord is liable through a civil action for both actual and exemplary damages to any tenant displaced from that unit. In addition, the City may also instate civil proceedings for exemplary damages.

C. Successors in Interest

- The constraints pertaining to the return of withdrawn units to the rental market apply to any successor in interest, provided the City records notice to that effect with the County Recorder.

ELLIS ACT PROVISIONS: LOS ANGELES MUNICIPAL CODE SEC. 151.22 - 151.28

SEC. 151.22. ELLIS ACT PROVISIONS - STATEMENT OF PURPOSE AND EFFECT

(Added by Ord. No. 177,901, Eff. 9/29/06.)

California Government Code Sections 7060, et seq. (the "Ellis Act") permits the City, among other things, to require landlords to provide all tenants with 120 days notice, or one year if the tenants lived in the accommodations for at least one year and are more than 62 years of age or disabled, when rental units subject to the Rent Stabilization Ordinance are to be withdrawn from the rental market. The Ellis Act also permits the City to impose other restrictions, conditions and requirements upon the property. It is the purpose of this section, and Sections 151.23 through 151.28, to implement provisions of the Ellis Act. The Department may develop forms and regulations to assist in the implementation of these provisions.

There continues to be a low vacancy rate for rental units in the City of Los Angeles, and the withdrawal of residential rental property from rent or lease will exacerbate the rental housing shortage and make it more difficult for tenants displaced by the withdrawal to obtain replacement housing. Because of the rental housing shortage, it is essential that tenants be afforded substantial advance notice to enable them to obtain replacement housing, and that they receive other protections available under law.

In any action by a landlord to recover possession of a rental unit subject to the Rent Stabilization Ordinance, the tenant may raise as an affirmative defense the failure of the landlord to comply with the requirements of Sections 151.22 through 151.28, as well as the failure of the landlord to comply with any other requirement of this chapter.

SEC. 151.23. ELLIS ACT PROVISIONS - REQUIRED NOTICE.

(Added by Ord. No. 177,901, Eff. 9/29/06.)

Notwithstanding any provision of this chapter to the contrary, if a landlord desires to demolish rental units subject to the Rent Stabilization Ordinance, or otherwise withdraw the units from rental housing use, then the following provisions shall apply:

A. Notice of Intent to Withdraw. The landlord shall notify the Department of an intention to withdraw a rental unit from rental housing use. This Notice of Intent to Withdraw shall contain the following: statements, under penalty of perjury on the form and in the number prescribed by the Department, stating that the landlord intends to evict in order to demolish the rental unit or to remove the rental unit from rental housing use, the address or location of the rental unit, the number of rental units to be demolished or removed from rental housing use, the names of the tenants of each rental unit, the date on which the rental unit will be withdrawn from rental housing use and the rent applicable to that rental unit.

The Department shall have the authority to promulgate forms and procedures to assist in the implementation of this subdivision.

B. Recordation of Non-Confidential Memorandum and Extension of the Date of Withdrawal from Rental Housing Use. The landlord shall record with the County Recorder a memorandum summarizing the provisions of the Notice of Intent to Withdraw, other than those provisions that are confidential. Information respecting the name or names of the tenants, the rent applicable to any rental unit, and the total number of units is confidential information and shall be treated as confidential information by the Department for purposes of the Information Practices Act of 1977, as contained in Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code.

The landlord shall submit a copy of the memorandum filed with the County Recorder to the Department concurrently with the Notice of Intent to Withdraw, with a certification that actions have been initiated as required by law to terminate any existing tenancies.

The date on which the rental units are to be withdrawn from rental housing use shall be at least 120 days from the date of the delivery to the Department in person or by first-class mail of the Notice of Intent to Withdraw.

If the tenant is at least 62 years of age or disabled (as defined in Government Code Section 12955.3) and has lived in his or her accommodations for at least one year prior to the date of delivery to the Department of the Notice of Intent to Withdraw pursuant to Subsection A. of this section, then the date of withdrawal of the accommodations of that tenant shall be extended to one year after the date of delivery of that Notice to the Department. This extension shall take place, if and only if, the tenant gives written notice of his or her entitlement to an extension to the landlord within 60 days of the date of delivery to the Department of the Notice of Intent to Withdraw. In that situation, the following provisions shall apply:

1. The tenancy shall be continued on the same terms and conditions as existed on the date of delivery to the Department of the Notice of Intent to Withdraw, subject to any adjustments otherwise available under the Rent Stabilization Ordinance.

2. No party shall be relieved of the duty to perform any obligation under the lease or rental agreement.

3. The landlord may elect to extend the date of withdrawal on any other rental units up to one year after the date of delivery to the Department of the Notice of Intent to Withdraw, subject to Subparagraphs 1. and 2.

4. Within 30 days of the notification by the tenant to the landlord of his or her entitlement to an extension, the landlord shall give written notice to the Department of the claim that the tenant is entitled to stay in the accommodations for one year after the date of delivery to the Department of the Notice of Intent to Withdraw.

5. Within 90 days of the date of delivery to the Department of the Notice of Intent to Withdraw, the landlord shall give written notice to the Department and the affected tenant of the landlord's election to extend the date of withdrawal and the new date of withdrawal under Subparagraph 3.

C. Notice to the Tenants of Pending Withdrawal. Within five days of delivery to the Department of the Notice of Intent to Withdraw with the certification required under Subsection B. of this section, and a copy of the memorandum recorded by the County Recorder, the landlord shall notify, by delivery in person or by first-class mail, each affected tenant of the following:

1. That the Department has been notified pursuant to Subsection A., including the date of the delivery to the Department of the Notice of Intent to Withdraw;

2. That the Notice delivered to the Department specified the name and the amount of rent paid by the tenant as an occupant of the accommodations;

3. The amount of rent the landlord specified in the notice to the Department;

4. Notice to the tenant of his or her rights under Paragraph (3) of Subdivision (b) of Government Code Section 7060.2; and

5. Notice to the tenant stating the following:

(a) If the tenant is at least 62 years of age or disabled, and has lived in his or her accommodations for at least one year prior to the date of delivery to the Department of the Notice of Intent to Withdraw, then the tenancy shall be extended to one year after the date of delivery to the Department of the Notice of Intent to Withdraw, provided that the tenant gives written notice of his or her entitlement to the landlord within 60 days of the date of delivery to the Department of the Notice of Intent to Withdraw;

(b) The extended tenancy shall be continued on the same terms and conditions as existed on the date of delivery to the Department of the Notice of Intent to Withdraw, subject to any adjustments otherwise available under the Rent Stabilization Ordinance; and

(c) No party shall be relieved of the duty to perform any obligation under the lease or rental agreement during the extended tenancy.

SEC. 151.24. ELLIS ACT PROVISIONS - NOTIFICATION TO DEPARTMENT OF INTENT TO RE-RENT UNIT.

(Added by Ord. No. 177,901, Eff. 9/29/06.)

A. If a landlord desires to offer for rent or lease a rental unit that was the subject of a Notice of Intent to Withdraw pursuant to the provisions of Subsection A. of Section 151.23, the landlord must file with the Department a Notice of Intention to Re-Rent Withdrawn Accommodations on a form prescribed by the Department. This Notice must contain the following information:

1. The names and mailing addresses of all owners of the property;
2. A statement that said owners intend to re-rent the accommodations;
3. The addresses of those accommodations.

B. Except as provided in Section 151.27 of this Article, the landlord shall not offer for rent or lease any unit from which a tenant or lessee was displaced for a period of thirty days following the filing of the Notice of Intention to Re-Rent Withdrawn Accommodations with the Department.

SEC. 151.25. ELLIS ACT PROVISIONS - CIVIL PENALTIES FOR OFFERING UNITS FOR RENT WITHIN TWO YEARS OF WITHDRAWAL.

(Added by Ord. No. 177,901, Eff. 9/29/06.)

If a rental unit that was the subject of a Notice of Intent to Withdraw pursuant to the provisions of Subsection A. of Section 151.23 is offered for rent or lease within two years of the date of withdrawal of the rental unit from the rental market:

A. The landlord shall be liable to any tenant or lessee who was displaced from the property for actual and exemplary damages. Any action by a tenant or lessee pursuant to this section shall be brought within three years of withdrawal of the rental unit from rent or lease. Nothing in this section precludes a tenant from pursuing any alternative remedy available under the law; and

B. The City may institute a civil proceeding against any landlord who has again offered a rental unit for rent or lease subject to this section, for exemplary damages for displacement of tenants or lessees. Any action by the City pursuant to this section shall be brought within three years of the withdrawal of the rental unit from rent or lease.

SEC. 151.26. ELLIS ACT PROVISIONS - REGULATION OF PROPERTY ON RE-OFFER FOR RENT OR LEASE AFTER WITHDRAWAL.

(Added by Ord. No. 177,901, Eff. 9/29/06.)

If a landlord desires to offer for rent or lease a rental unit which was the subject of a Notice of Intent to Withdraw pursuant to the provisions of Subsection A. of Section 151.23, the following regulations apply:

A. If a rental unit that was removed from rental housing use pursuant to the provisions of Section 151.23 is offered for rent or lease during either:

1. the five-year period after the Notice of Intent to Withdraw the accommodations is filed with the Department pursuant to Section 151.23, whether or not the Notice of Intent is rescinded or the withdrawal of the accommodations is completed pursuant to the Notice of Intent; or

2. the five-year period after the accommodations are withdrawn;

then the accommodations shall be offered and rented or leased at the lawful rent in effect at the time any Notice of Intent to Withdraw the accommodations was filed with the Department, plus annual adjustments available under Section 151.06 of this article.

B. Subsection A. of this section shall prevail over any conflicting provision of law authorizing the landlord to establish the rental rate upon the initial hiring of the rental unit.

SEC. 151.27. ELLIS ACT PROVISIONS - RE-RENTAL RIGHTS OF DISPLACED TENANTS.

(Added by Ord. No. 177,901, Eff. 9/29/06.)

If a landlord desires to offer for rent or lease a rental unit that was the subject of a Notice of Intent to Withdraw pursuant to the provisions of Subsection A. of Section 151.23, the following regulations apply:

A. A landlord who offers accommodations for rent or lease within two years from the date of withdrawal shall first offer to rent or lease each unit to the tenant or tenants displaced from that unit by the withdrawal, provided that the tenant or tenants advised the landlord in writing within 30 days of displacement of his or her desire to consider an offer to renew the tenancy, and provided the landlord with an address to which that offer is to be directed. That tenant or tenants may advise the landlord at any time during the period of eligibility of a change of address to which an offer is to be directed.

If a landlord again offers accommodations for rent or lease pursuant to the provisions of this subsection, and the tenant or lessee has advised the landlord pursuant to this subsection of a desire to consider an offer to renew the tenancy, then the landlord shall offer to reinstitute a rental agreement or lease on terms permitted by law to that displaced tenant or lessee.

A landlord who re-offers rental or lease accommodations to a previously displaced tenant pursuant to the provisions of this subsection shall deposit the offer in the United States mail, by registered or certified mail with postage prepaid, addressed to the displaced tenant or tenants at the address furnished to the landlord as provided in this subsection, and shall describe the terms of the offer. The displaced tenant or tenants shall have 30 days from the deposit of the offer in the mail to accept the offer by personal delivery of that acceptance or by deposit of the acceptance in the United States mail by registered or certified mail with postage prepaid.

B. A landlord who offers accommodations for rent or lease not exceeding five years from the date of withdrawal shall first offer to rent or lease each unit to the tenant or tenants displaced from that accommodation by the withdrawal, provided that the tenant or tenants requests the offer in writing within 30 days after the landlord has notified the Department of an intention to offer the accommodations again for residential rent or lease pursuant to the requirements of Section 151.24. The landlord shall be liable to any tenant or tenants who were displaced by that action for failure to comply with this subsection, for punitive damages in an amount that does not exceed the contract rent for six months.

SEC. 151.28. [RESERVED].

(Reserved Section Added by Ord. No. 177,901, Eff. 9/29/06.)

STEPS FOR WITHDRAWING AN OCCUPIED RENTAL UNIT FROM THE MARKET

These steps correspond to the flowchart presented on page 10 of this packet.

- Step 1:** Complete and record the *Memorandum Summarizing Non-Confidential Provisions of a Notice of Intent to Withdraw Units from Rental Housing Use (Form E1 – Non-Confidential Memorandum)* with the County Recorder and obtain a copy showing the recordation stamp for filing with LAHD in **Step 3**.
- Step 2:** Serve your tenant with a notice terminating their tenancy in accordance with the applicable requirements of California law. *Note that the date after which you recover possession of the rental unit (i.e., the termination date on the notice to quit you serve on the tenant) must be at least 120 days from the date you file a Notice of Intent to Withdraw Units from Rental Housing Use (Notice of Intent) with the Los Angeles Housing Department (LAHD) in accordance with Step 3 below.*
- Step 3:** Notify LAHD of your Ellis withdrawal by filing a *Notice of Intent to Withdraw Units from Rental Housing Use (Form E2 – Notice of Intent)* together with both (1), a copy of the *Non-Confidential Memorandum* recorded in **Step 1**, and (2), a copy of the notice to quit served on each tenant being displaced in **Step 2**. *LAHD will not accept a Notice of Intent that is not accompanied by both a recorder-stamped copy of the recorded Non-Confidential Memorandum and a copy of a notice to quit for each tenant listed on the Notice of Intent.* You may file these forms in person only at the following LAHD public counter location:

**Los Angeles Housing Department
1200 West 7th Street, 1st Floor
Los Angeles, CA 90017**

Please note that the various Ellis notification time limits do not begin until the day after the completed *Notice of Intent* and the copies of the recorded *Non-Confidential Memorandum* and notices to quit are received by LAHD.

- Step 4:** Notify your tenants of the Ellis withdrawal of their rental units and their related rights under State and City law by completing a *Notice to Tenant of Pending Withdrawal (Form E3 -- Notice to Tenant)* for each household to be displaced and serving each household with both the completed *Notice to Tenant* and a blank *Notice of Interest in Renewing Tenancy (Form E4 – Notice of Interest)*. *This noticing of tenants about their rights under Ellis must take place within 5 days of your filing of the Notice of Intent with LAHD in Step 3.*

- Step 5:** Pay relocation assistance to tenants who will be displaced. This payment may be made either directly to the tenant or through an escrow account (see Rent Adjustment Commission Regulation 960). The only tenants not entitled to relocation assistance are those who received written notice, prior to entering into a written or oral tenancy agreement, that an application to either (a) convert the building to a condominium, stock cooperative or community apartment or (b) demolish the building and replace it with a condominium, stock cooperative or community apartment was on file or had been approved by the City. If any current tenant is 62 years of age or older, is disabled or handicapped, or is residing with one or more minor children who are legally dependent on that tenant for federal income tax purposes, that tenant's household is entitled to either \$15,500 or \$18,300 in relocation assistance; if no tenant meets one of these qualifications, that tenant's household is entitled to either \$7,300 or \$9,650 in relocation assistance. (These assistance amounts are in effect as of April 11, 2007.) **You must pay this assistance, either directly or through an escrow account in the tenant's name, within 15 days of service of the written notice terminating the tenancy undertaken in Step 2.**
- Step 6:** Inform LAHD of any tenant claims for entitlement to extended tenancy by completing a *Notice to City of Claims for Extended Tenancy (Form E5 – Notice of Claims)*. **Your tenants have 60 days from the filing of the *Notice of Intent* in Step 3 to advise you of their entitlement. You must file the *Notice of Claims* with LAHD within 30 days of your receipt of notification by a tenant.**
- Step 7:** Notify tenants in situations where you elect to extend the date of withdrawal up to a year for households not otherwise entitled to such an extension. **You must provide this notice within 90 days of your filing of the *Notice of Intent* in Step 3.**
- Step 8:** Notify LAHD in situations where you elect to extend the date of withdrawal up to a year for households not otherwise entitled to such an extension by filing a *Notice to City of Extended Dates of Withdrawal (Form E6 – Notice of Extended Withdrawal)*. **You must file this notice within 90 days of your filing of the *Notice of Intent* in Step 3.**

Ellis Flowchart

