

July 15, 2024

City Council  
City of Oakland  
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Re: Comment on Elevator Ordinance 7/16 Council, agenda item S14

To Whom It May Concern:

The Disability Rights Education and Defense Fund, founded in 1979, is a leading national civil rights law and policy center whose mission is to advance the civil and human rights of people with disabilities through legal and public policy advocacy, training, and legislative development.

We are writing in support of the Oakland Elevator Maintenance Ordinance.

The Fair Housing Amendments Act of 1988 and other federal and state fair housing laws prohibit discrimination against people with disabilities in the sale or rental of housing. A housing provider's failure to take the steps necessary to ensure that elevators are adequately and proactively maintained and promptly repaired, and/or failure to reasonably accommodate tenants during periods of elevator inoperability violates these laws. *See, e.g.*, 42 U.S.C. §§ 3604(f)(2)(A), 3604(f)(3)(B); Cal. Gov't Code §§ 12955(a), 12927(c)(1); Cal. Civ. Code § 51(b); Cal. Civ. Code §§ 54.1(a)(1), (b)(3)(B).

The Oakland Ordinance complements these laws by providing clear guidelines and specific requirements for the maintenance of elevators, notice to residents of inoperable elevators, and/or the provision of alternative housing while elevator repairs are pending. This guidance will benefit tenants with disabilities enormously. In our experience, disabled tenants are not always aware of their rights when it comes to elevator maintenance, and/or they are afraid to assert their rights due to the significant power imbalances that exist in landlord-tenant relationships. Many tenants silently endure discrimination fearing retaliation, eviction, and the inability to secure accessible, affordable replacement housing.

This fear is justified. The lack of physically accessible housing is a significant barrier to disabled people. Less than 5% of housing in the United States is accessible for individuals with moderate mobility disabilities. HUD, *Accessibility of America's Housing Stock: Analysis of the 2011 American Housing Survey (AHS) 24* (2011). Less than 1% is wheelchair accessible. *Id.* A landmark study of homelessness in California illustrates this point. 24% of participants reported being unable to find housing that met their needs "due to a physical disability." Margot Kushel & Tiana Moore, *Towards a New Understanding: The California Statewide Study of People*

*Experiencing Homelessness*, U.C.S.F. Benioff Homelessness and Hous. Initiative 79 (2023). Fourteen percent reported that this “impacted their ability to find housing a lot.” *Id.* Oakland is not exempt from this accessible housing shortage.

The lack of affordable housing is a similarly significant barrier. People with disabilities disproportionately live in poverty. Many rely on Supplemental Security Income (SSI) benefits to meet their basic needs. Ctr. Rsch. on Disability, *Section 6: Poverty*, <https://www.researchondisability.org/ADSC/compendium-table-contents/section-6-poverty> (noting that in 2022, 24.9% of disabled people were living in poverty compared to 10.1% of people without disabilities). In an ongoing study of the housing market for people living on SSI, the Technical Assistance Collaborative has found that “there is *no United States housing market* in which a person living solely on [SSI] can afford a safe, decent apartment without rental assistance.” *Priced Out: The Housing Crisis for People with Disabilities*, <https://www.tacinc.org/resources/priced-out/>. In 2024 in California, a person with a disability received SSI benefits equal to \$1,182.94 per month. *Id.* In the Oakland-Fremont area, this income was equal to 13% of the area median income. *Id.* A person with a disability receiving SSI would have to pay 154% of their monthly income to rent an efficiency unit and 180% of their monthly income for a one-bedroom unit. *Id.*

Given this context, we strongly agree with and support the Ordinance. However, we also have the following suggestions:

1. The Ordinance should provide for a food and laundry stipend when individuals are displaced from units that provided kitchens and laundry machines.
2. The Ordinance should provide for assistance with retrieving mail and other necessities, e.g., medications, that are delivered to the unit from which the tenant has been displaced.
3. 8.72.060(C)(1) should clarify that the term “accessible” is not limited to physical accessibility. Some tenants may use emotional support animals, for example, and require temporary housing that will accommodate that need.
4. The Ordinance should clarify that where notice is required, alternative formats should be made available.
5. Under California’s Fair Employment and Housing Act, housing providers must engage in an “interactive process” with tenants regarding their accommodation needs. *See* Cal. Code Regs. Tit. 2, § 12177. The Ordinance should reference this obligation, and mention—consistent with 8.72.090(D)—that relocation is just one of many potential accommodations to which a disabled tenant may be entitled. Others include unit transfer or the ability to break one’s lease early without penalty.
6. The Ordinance should require housing providers to develop emergency evacuation plans to ensure that tenants with disabilities can safely evacuate in the case of fire, medical emergency, or other emergency, especially when an elevator is out of service.

We greatly appreciate your attention to this issue. We receive calls on a regular basis from tenants in buildings with inoperable and ill-maintained elevators and know firsthand the difficulties they experience.

Please feel free to contact us should you have any questions or require additional information regarding our comments.

Sincerely,

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