

# Court upholds ban on some evictions in school year

By Winston Cho

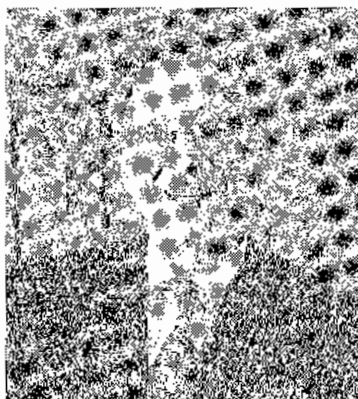
Daily Journal Staff Writer

An appellate ruling reversed a lower court's decision concerning no-fault eviction protections for school employees and families with children, reinstating a San Francisco ordinance that prevents these groups from being evicted during the school year.

The 1st District Court of Appeal ruled last week that the ordinance, which extends eviction protections to "educators" and families with children under 18, did not interfere with state laws regarding eviction procedures and is a substantive regulation not under the authority of the state Legislature.

"Our city is struggling with a housing crisis," said San Francisco City Attorney's Office Communications Director John Cote. "This is a common-sense protection for some of the most vulnerable San Franciscans."

The Extended Notice Ordinance forces landlords to serve eviction notices that will expire outside of the school year for tenants in the protected classes. The appellate court acknowledged the distinction between procedural and substantive law can be "shadowy and difficult to draw" in practice, but agreed with city attorneys that timing is merely a component of the substantive defense to eviction. *San Francisco Apartment Association et al., v. City and County of San Francisco et al.*, A149916 (Cal. App. 1st Dist.



SIMONS

Feb. 14, 2018).

"This procedural impact is necessary to regulate the substantive grounds of the defense it creates," wrote Presiding Justice Mark B. Simons in the ruling. "The purpose of the ordinance is to protect children from the disruptive impact of moving during the school year or losing a relationship with a school employee who moves during the school year."

Property owners contended the ordinance is procedural because it governs the timing of eviction notices, arguing that it only delays certain evictions.

Plaintiffs' attorney Andrew M. Zacks contended any regulations concerning notice requirements are inherently procedural, adding that giving additional power to the city will create a web of complications and confusion.

He also said that "educator" is used as an "absurdly broad term" in the ordinance, explaining that the eviction protections are afforded to anyone that works for the school in any capacity, even

independent contractors.

"It's a slippery slope when cities have the authority to control the notice of evictions," Zacks said. "There's an absolute need for uniformity."

Tenants' rights lawyer Joseph Tobener of Tobener Ravenscroft characterized the ruling as monumental because it clarified the protections afforded to families with children by an already existing ordinance.

Attorneys on both sides were unsure whether the superior court's decision to rescind the Extended Notice Ordinance, which extended these protections to include school employees as well, invalidated protections given to families with children under the existing ordinance.

Tobener said his firm received dozens of inquiries from clients with children who would have been protected before the ordinance was rescinded. But he advised them to settle rather than challenge the eviction because he didn't want them to be the "test case" of whether the protections for families with children were tossed as well.

"There was a lot of debate as to whether the protections for children was thrown out along with the protections for teachers," Tobener said. "This clarifies that we now know that teachers get these protections but also families with children, too."

winston\_cho@dailyjournal.com