

**ASUC**  
**Renters Legal Assistance**  
**314 Eshleman Hall**  
**510 642-1755**  
[www.ocf.berkeley.edu/~asucrla](http://www.ocf.berkeley.edu/~asucrla)  
[asucrla@ocf.berkeley.edu](mailto:asucrla@ocf.berkeley.edu)

**BERKELEY LAW**  
**Requirements for an “Owner/Relative Occupancy” Eviction**

The Berkeley Rent Ordinance requires the landlord to state in the “Notice to Quit” or “Notice of Termination” a good cause for the eviction under the Law (Berkeley Municipal Code Section 13.76.130(b)). Regulation 1310 requires that every element of the good cause for eviction shall be stated in writing in the “Notice to Quit” or “Notice of Termination” to the tenant, and that the landlord’s failure to do so is a defense to the eviction action.

The following are the essential elements for an “owner/relative occupancy” eviction under Section 13.76.130(A)(9) of the Ordinance, all of which must be stated in the Notice (**ALSO SEE MEASURE Y BELOW**):

1. The landlord is an owner of record holding at least a 50% interest in the property;
2. The landlord is seeking to recover possession of the rental unit for the use and occupancy as a principal residence by the landlord, or the landlord’s spouse, child, or parent;
3. The name and relationship of the intended occupant to the landlord must be stated (Regulation 1380);
4. The landlord is acting in good faith;
5. No comparable unit in the property was vacant and available for the 90-day period prior to the date of the Notice, or is or will be vacant and available prior to the trial in the case.

If any of the above elements are not stated in the Notice, the notice may be found defective by the Court.

**NOTE:** ON ANY NOTICE TO VACATE, THE **OWNER MUST ALLEGE COMPLIANCE WITH SECTION 8 AND 10 OF THE ORDINANCE AS WELL AS SUBSTANTIAL COMPLIANCE WITH THE IMPLIED WARRENTY OF HABITABILITY AS OF THE STATE OF SERVICE OF THE NOTICE TO VACATE.**

**Measure Y**, passed by voters as an amendment to the Ordinance in November 2000, prohibits evictions for owner or relative occupancy where either: (1) a tenant has lived on the property for 5 or more years and the landlord has a 10% or greater ownership interest in 5 or more residential units in Berkeley, or (2) a tenant is at least 60 years old or disabled, has lived on the property for 5 or more years, and the landlord has a 10% or greater ownership interest in 4 residential units in

Berkeley. If all the landlord's units are limited by the above, an eviction for the owner or relative to move in is permitted where: the landlord has owned the property for 5 years and is at least 60 years old or disabled, or the landlord's relative is at least 60 years old or disabled.

Under Measure Y, the landlord must include, in the notice of termination, information about all Berkeley residential properties in which he or she has a 10% or greater ownership interest, and must always offer the tenant any unit that the landlord owns in Berkeley that becomes available before the tenant vacates his or her unit. (The rent for the new unit will be based on the rent of the vacated unit with adjustments for differences between the units.)

Measure Y also requires the landlord to provide a \$4,500 relocation assistance payment to any low-income tenant who has resided in the unit for one year or more, if the tenant notifies the landlord and the Rent Board in writing, within 30 days of receiving the notice of termination of the tenancy, that he/she is claiming low-income tenant status.

The landlord must give the terminated tenant the right to re-occupy the unit when the landlord or his or her relative moves out. Also, when the landlord or his or her relative moves out, the rent for the next tenant will be limited to the prior rent ceiling and intervening AGAs.

Finally, if a landlord rescinds a notice of termination for owner or relative move-in, or stops eviction proceedings under Measure Y, and the tenant vacates within one year of the notice date, it is presumed that the tenancy terminated as a result of the notice, and the rent for the next tenancy will be limited to the prior rent ceiling and intervening AGAs. ([Reg. 1016.](#))