

**From:** [Charlie Sciammas](#)  
**To:** [Melgar, Myrna \(BOS\)](#)  
**Cc:** [Fieber, Jennifer \(BOS\)](#); [John Avalos](#); [Peskin, Aaron \(BOS\)](#); [Preston, Dean \(BOS\)](#); [Carroll, John \(BOS\)](#)  
**Subject:** Tenant Enforcement of Habitability Legislation (File #231224)  
**Date:** Wednesday, April 10, 2024 10:58:56 AM  
**Attachments:** [CCHO Letter Amendments Tenant Enforcement of Habitability 4.10.24.pdf](#)

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Dear Supervisor Melgar,

Thank you for meeting with us on February 26th and for the opportunity to learn more about your goals and the issues you are hoping to address with the Tenant Enforcement of Habitability legislation. As requested, the Council of Community Housing Organizations (CCHO) is submitting written recommendations for amendments to the legislation. Please see our attached letter.

Respectfully,  
Charlie Sciammas

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Charlie Sciammas, Policy Director  
**Council of Community Housing Organizations / CCHO Action**  
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April 10th, 2024

The Honorable Supervisor Myrna Melgar  
1 Dr. Carlton B. Goodlett Place,  
City Hall, Room 244  
San Francisco, Ca. 94102-4689

RE: Tenant Enforcement of Habitability (File #23124)

Dear Supervisor Melgar,

We are writing on behalf of the Council of Community Housing Organizations, representing 21 mission-driven member organizations rooted in BIPOC neighborhoods throughout San Francisco working to stabilize local communities, prevent displacement, and partner with our city to acquire and develop affordable housing.

Thank you for meeting with us on February 26th and for the opportunity to learn more about your goals and the issues you are hoping to address with the Tenant Enforcement of Habitability legislation. As requested, we are submitting written recommendations for amendments to the legislation.

We want to affirm our shared goal and commitment to providing long term permanent affordability and ensuring safe and dignified conditions for affordable housing residents. We fully support empowering tenants to have access to healthy living environments, and want to ensure that we work together to ensure that the legislation is crafted in such a way as to not have unintended impacts on affordable housing providers that could threaten sustainability.

We are concerned that the legislation doesn't yet hold the safeguards that will be needed for affordable housing organizations given the real-world challenges of operating affordable housing in the context of the state's oldest housing stock and the scarcity of funding (public or private) for housing rehabilitation and upgrades. As you are aware, this is a challenge we are already struggling with separate from this legislation and are concerned that the threat of increased litigation will dramatically increase the complexity and cost of maintenance and operations and may result in varying degrees of loss of insurance coverage, thus compromising our ability to reinvest back into our properties.

Insurers are already increasingly stepping back coverage and even excluding habitability claims from coverage, and we believe the legislation in its current form may jeopardize the portfolios of the majority of affordable housing providers, even though they are good actors in the housing space, because the cash flow is simply not there to absorb this risk out of pocket. Moreover, we believe that for preservation projects, the ordinance in its current form would likely make these

already challenging projects harder to achieve.

We think we are likely in agreement that we'd prefer to use our public investments that we draw upon towards fund our affordable housing projects, whenever possible, to be used as directly as possible to serve in housing and servicing residents' needs, as opposed to paying out litigation claims. We are also not optimistic that the increase in litigation will necessarily change outcomes around habitability, particularly for the most vulnerable tenants and not without an adequate source of funding to sufficiently and consistently address the maintenance and habitability of affordable housing residences.

As such, we wanted to share the following proposed amendments to help ensure we can find a way to empower tenants and hold bad actors accountable, while at the same time ensuring that we are not having unintended consequences on affordable housing production and accessibility.

Concern	CCHO Proposed Amendments
<i>1. The proposed legislation does not ensure an adequate dispute resolution and fact-finding process by a neutral third party when tenants raise unresolved concerns about housing conditions.</i>	<b>Require a Notice of Violation (NOV) and, following a DBI Director's Hearing, findings of a violation by the owners before a party can file suit to seek damages, penalties, and attorney's fees.</b>  Note: At the NOV stage, housing code issues may be described in a general and/or vague way. Technical violations that do not pose a threat to health or safety may be included in the NOV along with violations that may be tenant caused. The Director's Hearing addresses and clarifies such questions and can also take into consideration situations where the tenant needs to agree to provide access to a unit for repairs to be completed. It is also at the Director's hearing where DBI decides whether to refer the case to the City Attorney for legal action. Thus it is logical that the tenant's right to sue for Housing Code violations should arise only after that hearing.
<i>2. The proposed legislation will jeopardize the ability to acquire buildings through the city's Housing Preservation Program where there may exist years of deferred maintenance and habitability code violations.</i>	<b>When preservation buildings are acquired by a Qualified COPA Nonprofit Developer, they have 6 months to file for their DBI permits, and they will have 3 years to implement habitability upgrades included in the scope of work before development is eligible for right of action. This timeframe may require extensions to accommodate public utility and other government agency delays (ie. PG&amp;E).</b>
<i>3. The proposed legislation needs additional clarity to the notification process when tenants pursue a right of action.</i>	<b>Add provision that the plaintiff must provide the unit owner written notice 60 days prior to filing suit, or less if the City Attorney determines that a waiver of the 60 days is appropriate.</b>

4. <i>The proposed legislation will open the door to increased incidence of burdensome legal costs arising from frivolous lawsuits, or otherwise abusive and predatory legal practices.</i>	<b>Limit legal actions to non profit legal organizations.<sup>1</sup></b>
5. <i>The proposed legislation does not provide sufficient safeguards in the case of tenants who do not cooperate to address habitability concerns.</i>	<b>Require tenants filing suit to facilitate meaningful and unobstructed landlord entry into the unit in order to properly diagnose the violation and create an effective resolution. Any pattern of repeated delays to landlord reentry may be grounds to suspend or even invalidate the legal action.</b>
6. <i>The proposed legislation does not make reference to the city's needed partnership with non profit housing providers to provide adequate funding for repairs and maintenance to cure conditions in affordable housing buildings that have been subject to significant deferred maintenance.</i>	<b>Exempt units where there has been a repeated lack of public investment by city agencies to fund needed capital repairs and deferred maintenance.</b>  For example, one NOV for an outage of an aging elevator that needs replacement could generate scores of lawsuits and extraordinary liability over many months or even years while the housing organization and the city raise funds to meet the significant expense of such repairs and renovation.
7. <i>The proposed legislation unnecessarily imposes treble damages in all cases based upon the age of the party despite the fact that the right to recover punitive damages already exists where a bad actor engages in willful or reckless misconduct.</i>	<b>Remove provision for treble damages under the ordinance.</b>

We also remain open to the concept of exempting affordable housing and preservation projects

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<sup>1</sup> There are many legal services organizations that do housing work, and a number of them, including for example Legal Assistance to the Elderly, Tenderloin Housing Clinic, Open Door, JDC/Homeless Advocacy Project, and ALC already do affirmative work including bring affirmative actions to address habitability issues. These organizations would likely take on more cases if there were legal fees, or perhaps a separate RFP by the City to fund this work.

from this right of action process, for projects that are subject to inspections pursuant to regulatory public agency agreements, as a potential alternative to satisfying a number of concerns.

We appreciate the opportunity to submit amendments and hope to continue this conversation together soon. If there is an opportunity to include local insurance industry experts to help inform the path forward, we think this could be helpful in problem-solving this complex issue. We look forward to working together with your office and hearing your feedback on the amendments listed here..

Sincerely,



Charlie Sciammas  
Policy Director



John Avalos  
Executive Director

CC  
President Aaron Peskin, Member, Land Use Committee  
Supervisor Dean Preston, Member, Land Use Committee  
John Carroll, Clerk, Land Use Committee

**From:** [Teresa Palmer](#)  
**To:** [Preston, Dean \(BOS\)](#); [Stefani, Catherine \(BOS\)](#); [Chan, Connie \(BOS\)](#); [Peskin, Aaron \(BOS\)](#); [Melgar, Myrna \(BOS\)](#); [PrestonStaff \(BOS\)](#); [PeskinStaff \(BOS\)](#); [ChanStaff \(BOS\)](#); [StefaniStaff \(BOS\)](#); [MelgarStaff \(BOS\)](#)  
**Cc:** [Crayton, Monique \(BOS\)](#); [Carroll, John \(BOS\)](#)  
**Subject:** Support of Elevators Fund Hearing (File No. 240181) AND Supervisor Melgar's Legislation (File No. 231224)  
**Date:** Sunday, March 24, 2024 8:11:55 PM

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CC: [Monique.Crayton@sfgov.org](mailto:Monique.Crayton@sfgov.org)  
[john.carroll@sfgov.org](mailto:john.carroll@sfgov.org)

Date: March 24, 2024

**Subject: Support of Elevators Fund Hearing (File No. 240181) AND Supervisor Melgar's Renters Rights Legislation (File No. 231224)**

Dear Supervisors Preston, Stefani, and Chan on GAO Committee  
and Supervisors Preston, Peskin and Melgar on Land Use Committee

I am writing to express my support for the hearing on the ongoing delays in the disbursement of funds to fix elevators in Single Room Occupancy housing (SROs). This is a much needed action to hold the Mayor's office accountable for releasing the funds already allocated in the budget to address this ongoing problem.

However, this is not enough to address numerous other hazardous and life-threatening issues faced by our poor, elderly, and disabled tenants who have to contend with substandard housing due to their negligent and greedy slumlords. Our lawmakers should hold such landlords, including non-profit owners and operators who ignore tenants rights and keep the most vulnerable among us in squalid, hazardous, and unsafe tenements accountable.

That is exactly what Supervisor Melgar's legislation, Tenant Enforcement of Habitability Requirements (File No. 231224) intends to do. **Why has no hearing been scheduled?**

We need a systemic reform to empower tenants to force these bad actors, be it private or non-profit, to provide basic services for which they collect rent such as water, sewer, heat, stoves, refrigerators, and safe habitats.

Resistance from slumlords or certain non-profits who want to carve out exemptions from this legislation is par for the course but we expect more from our lawmakers. I urge you to do the right thing and lend your full support to Supervisor Melgar's legislation to hold negligent landlords of all stripes accountable.

Sincerely,

Teresa Palmer M.D. district 5

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