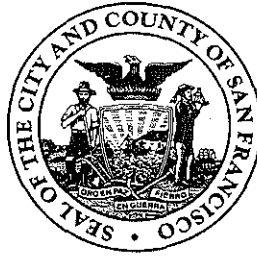


BOARD of SUPERVISORS



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MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the City Controller
Tom Hui, Director, Department of Building Inspection
Joanne Hayes-White, Chief, Fire Department
Trent Rhorer, Executive Director, Human Services Agency

FROM: Linda Wong, Assistant Clerk, Budget and Finance Committee

DATE: November 21, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following substituted legislation:

File No. 170937

Ordinance amending the Administrative Code to establish the Tenant Assistance Fund for Hazardous Housing and to allow certain eligible tenants displaced due to administrative orders to vacate issued by the Department of Building Inspection or the Fire Department to receive financial assistance from the Fund for up to two years.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Todd Rydstrom, Office of the City Controller
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Kelly Alves, Fire Department
Krista Ballard, Human Services Agency

1 [Administrative Code - Tenant Assistance Fund for Hazardous Housing]

2
3 **Ordinance amending the Administrative Code to establish the Tenant Assistance Fund**
4 **for Hazardous Housing and to allow certain eligible tenants displaced due to**
5 **administrative orders to vacate issued by the Department of Building Inspection or the**
6 **Fire Department to receive financial assistance from the Fund for up to two years.**

7 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Findings.

16 (a) The City and County of San Francisco is committed to promoting the life safety of
17 all residents, and access to secure and affordable housing for all.

18 (b) Enforcement of State law and the City's Building and Fire Codes is essential to
19 ensure that the City's housing stock meets health and safety standards. These laws charge
20 the Fire Department and Department of Building Inspection, among other City agencies, with
21 inspecting properties for hazardous conditions, citing code violations, conducting
22 administrative hearings, and ordering abatement. The City aims in a number of ways to assist
23 building owners and others responsible for building safety with bringing housing up to code.
24 Code enforcement agencies often conduct series of inspections and administrative hearings,
25 at which property owners and other interested parties may avail themselves of an opportunity
to be heard, and to convey plans for abatement. The Mayor's Nuisance Abatement Revolving

1 Loan Fund, established in Section 10.100-118 of the Administrative Code, provides loans to
2 building owners to help defray the cost of repairs and improvements needed to abate code
3 violations.

4 (c) Where responsible parties fail to abate hazards to health or life safety, State and
5 local laws place upon City code enforcement agencies the responsibility to order evacuation
6 to remove tenants from harm's way until the hazards have been addressed.

7 (d) The State recognizes the hardships associated with displacement stemming from
8 such orders. The California Health and Safety Code, Sections 17975 et seq., provides a
9 Tenant Relocation Assistance program that entitles tenants who are subject to such orders
10 through no fault of their own and otherwise deemed eligible by a local code enforcement
11 agency, to a sum equal to two months of the fair market rent for the area plus an amount
12 sufficient for utility service deposits, as well as return of any security deposit, all payable by
13 the building owner or designated agent within 10 days from posting of the order to vacate.
14 Where there are fewer than 10 days between posting and the vacation date, payment is due
15 within 24 hours of the order's posting. Building owners or designated agents are entitled to an
16 appeals process to challenge such eligibility determinations. In addition, the State program
17 contemplates that the remedy it offers is cumulative of and in addition to others that may be
18 made available under state, federal, or local law.

19 (e) Housing in San Francisco is both scarce and expensive, and San Francisco faces
20 a housing shortage among the most acute in the State and the country. Further, some of San
21 Francisco's most vulnerable residents live in conditions that are deplorable, dangerous, and
22 life-threatening. In San Francisco, two months' worth of assistance at the owner's expense for
23 tenants displaced as a result of code enforcement that is necessary to ensure life safety is
24 inadequate to counter the cost of displacement.
25

1 (f) Thus a local remedy in addition to the State program, as provided for in this
2 ordinance, would better enable the City to address the unique challenges of tackling unsafe
3 housing in San Francisco. The City must not turn a blind eye to hazardous housing conditions,
4 and therefore must rigorously enforce code provisions designed to ensure life safety in
5 housing. But it must also seek to mitigate the collateral impact of upholding housing safety on
6 its most vulnerable residents through code enforcement efforts that result in their
7 displacement. To do so, such residents must have access to immediate assistance, as well as
8 continued assistance for the time it takes to help them achieve greater housing security given
9 San Francisco's unique conditions. The City therefore has an interest in holding accountable
10 building owners, their designees, and other parties who are responsible for the City's housing
11 stock and for the unlawful conditions that endanger tenants and at times necessitate their
12 displacement.

13
14 Section 2. The Administrative Code is hereby amended by adding Section 10.100-343,
15 to read as follows:

16 **SEC. 10.100-343. TENANT ASSISTANCE FUND FOR HAZARDOUS HOUSING.**

17 **(a) Establishment of Fund.** *The Tenant Assistance Fund for Hazardous Housing (the "Fund")*
18 *is established as a category six fund to receive any monies appropriated or donated for the purpose of*
19 *assisting tenants displaced from their residences by administrative orders to vacate by the Department*
20 *of Building Inspection and/or the Fire Department ("City code enforcement agency"), as set forth in*
21 *this Section 10.100-343. Donations to the Fund are deemed approved for acceptance and expenditure*
22 *without further approval by the Board of Supervisors.*

23 **(b) Use of Fund.** *The Fund shall be used exclusively by the Director or his or her designee of*
24 *the Human Services Agency or any successor agency ("HSA Director") to provide assistance to*
25 *tenants who are vacating or have vacated their residences to comply with an administrative order to*

1 vacate issued within the past seven days by a City code enforcement agency as a result of Building
2 and/or Fire Code violations. The HSA Director may utilize the Fund to assist tenants, or households
3 thereof, so qualified, earning up to 100% of the Area Median Income, and otherwise deemed eligible in
4 accordance with this subsection (b) ("Eligible Tenants"). Disbursements from the Fund are entirely in
5 the HSA Director's lawful discretion and there is in no circumstance a right to any payment under this
6 Section.

7 (1) The HSA Director shall authorize disbursements to Eligible Tenants on a case-by-
8 case basis in accordance with HSA policy as adopted pursuant to subsection (c). In administering this
9 Section, the HSA Director shall seek the input of code enforcement agencies and other City authorities
10 as the HSA Director deems appropriate. The HSA Director may revise these case-by-case decisions as
11 necessary or appropriate to take into account evolving circumstances.

12 (2) For an Eligible Tenant of a residential rental unit that has been occupied by the
13 tenant for at least 32 continuous days including the day an applicable order to vacate is issued, and
14 where the tenant has paid rent, the HSA Director may provide a rental assistance payment of up to
15 100% of the current established fair market rent for the area, as determined by the Department of
16 Housing and Urban Development pursuant to Section 1437f of Title 42 of the United States Code, as
17 that Section may be amended in the future, plus an amount that the HSA Director determines is
18 sufficient for utility service deposits, less the amount of rent that the eligible tenant was paying in the
19 residence from which he/she has to vacate. The HSA Director may make rental assistance payments
20 from the Fund on a per residential unit basis for up to either (A) two years per unit, or (B) the time
21 when all department(s) that ordered the unit vacated have deemed it habitable, whichever occurs first.
22 The HSA Director shall authorize disbursements to an Eligible Tenant for an initial duration not to
23 exceed six months. At the conclusion of the initial duration for authorized disbursements, whether it is
24 six months or less, the circumstances of the Eligible Tenant shall be reassessed, and continued
25 assistance may be authorized, subject to the durational limits set forth in this subsection (b)(2).

1 (c) Administration of Fund. Within 60 days of the effective date of the ordinance in Board
2 File No. _____ creating the Fund, the HSA Director shall adopt a policy for implementation of
3 this Section 10.100-343, which the HSA Director may modify from time to time as the HSA Director
4 deems necessary or appropriate.

5 (d) Annual Report. The HSA Director shall submit an annual written report to the Mayor, the
6 Board of Supervisors, and the Controller within the first two weeks of July, showing for the prior fiscal
7 year donations received, the nature and amount of such donations, and the disposition thereof, together
8 with a description of the individual payments made from the Fund.

9
10 Section 3. The Administrative Code is hereby amended by adding Chapter 80A,
11 entitled "Orders to Vacate Due to Hazardous Housing Conditions," consisting of Sections
12 80A.1 through 80A.4, to read as follows:

13
14 **CHAPTER 80A: ORDERS TO VACATE DUE TO HAZARDOUS HOUSING CONDITIONS**

15
16 **SEC.80A.1. OWNER'S OBLIGATION TO ABATE NUISANCES AND NOTIFY**
17 **TENANTS.**

18 (a) Nuisance Abatement. Each condition of property in violation of State law or the San
19 Francisco Municipal Code contributing to a hazardous housing condition that leads the Fire
20 Department and/or the Department of Building Inspection ("City code enforcement agency") to issue
21 an order to vacate constitutes a nuisance, which may be summarily abated by the City at the expense of
22 the persons creating, causing, committing, or maintaining the nuisance. Nuisance abatement shall
23 include City activities under either this Chapter 80A or Section 10.100-343 of the Administrative Code,
24 or both, including disbursements from the Tenant Assistance Fund for Hazardous Housing established
25 in Section 10.100-343 (the "Fund"), administration of the Fund, and delivery of services to tenants

1 displaced by hazardous conditions. Each such person who has created, caused, committed, or
2 maintained such a condition shall promptly reimburse the City all costs it incurs under this Chapter
3 80A and Section 10.100-343, as determined by the Director of the Department of Building Inspection
4 or his or her designee ("DBI Director"), upon being notified of such costs. The DBI Director shall
5 timely notify the owner of the HSA Director's determination of the owner's responsibility, and amounts
6 owed to the City. The Controller shall deposit any funds the City collects or is reimbursed under this
7 Chapter 80A into the Fund.

8 (b) Notification to Tenants. The owner of a building subject to an administrative order to
9 vacate shall, upon issuance of such order, make a good-faith effort to notify each tenant or family
10 thereof verbally and in writing, in the first language of the tenant or family, of (1) the order to vacate's
11 contents and meaning; and (2) the contents of this Chapter 80A and Section 10.100-343.

12 **SEC. 80A.2. RECOVERY OF COSTS.**

13 Where an owner or other responsible party fails within 15 days of the City's demand to
14 reimburse the City for the nuisance abatement costs specified in Section 80A.1(a), the City Attorney
15 may commence an action to recover such costs, and to pursue other recovery and relief as provided for
16 elsewhere in State and City law. The City may also or in the alternative, pursuant to Administrative
17 Code Section 10.230, impose a nuisance abatement lien to collect abatement and related administrative
18 costs. Money recovered shall be used to cover City expenses, including litigation costs, and any
19 additional funds recovered shall be deposited in the Fund.

20 **SEC. 80A.3. PENALTIES.**

21 Where an owner is subject to a second HSA Director's determination of responsibility under
22 Section 80A.1(a) within two years, for either the same building or a different building, the owner shall
23 owe to the City double its nuisance abatement costs under the HSA Director's second determination.
24 Where the owner is subject to a third HSA Director's determination within two years, the owner shall
25 owe to the City treble its nuisance abatement costs under the HSA Director's third determination. For

1 purposes of this Section 80A.3, an "owner" includes a person or entity responsible for a building, as
2 well as any person, agent, firm, or corporation holding a 10% or greater legal or beneficial interest in
3 said person or entity.

4 **SEC. 80A.4. CITY'S ADDITIONAL OBLIGATIONS.**

5 The Human Services Agency shall provide case management services, including information
6 and/or referrals for accessing housing programs and/or supportive services in the Bay Area, to tenants
7 who have been displaced following an order to vacate as a result of hazardous housing conditions.

8
9 Section 4. Undertaking for the General Welfare. In enacting and implementing this
10 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
11 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
12 is liable in money damages to any person who claims that such breach proximately caused
13 injury.

14
15 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of
16 this ordinance, or any application thereof to any person or circumstance, is held to be invalid
17 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
18 affect the validity of the remaining portions or applications of the ordinance. The Board of
19 Supervisors hereby declares that it would have passed this ordinance and each and every
20 section, subsection, sentence, clause, phrase, and word not declared invalid or
21 unconstitutional without regard to whether any other portion of this ordinance or application
22 thereof would be subsequently declared invalid or unconstitutional.

1 Section 6. No Conflict with Federal or State Law. Nothing in this ordinance shall be
2 interpreted or applied so as to create any requirement, power, or duty in conflict with any
3 federal or state law.

4
5 Section 7. Effective Date. This ordinance shall become effective 30 days after
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
8 of Supervisors overrides the Mayor's veto of the ordinance.

9
10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By:


14 NEHA GUPTA
15 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Substituted, 10/31/17)

[Administrative Code - Tenant Assistance Fund for Hazardous Housing]

Ordinance amending the Administrative Code to establish the Tenant Assistance Fund for Hazardous Housing and to allow certain eligible tenants displaced due to administrative orders to vacate issued by the Department of Building Inspection or the Fire Department to receive financial assistance from the Fund for up to two years.

Existing Law

San Francisco law does not contain a fund specifically to assist San Francisco residents ordered to vacate their homes pursuant to Fire Department or Department of Building Inspection orders based on hazardous code violations. In California Health and Safety Code Section 17975 et seq., the State entitles tenants deemed eligible by the local code enforcement agency to the equivalent of two months' market rate rent plus an amount sufficient for utility service deposits, and return of any security deposit, at the expense of the building owner or designated agent, and contemplates that such relief may be cumulative of remedies available in other federal, state, and local laws.

Amendments to Current Law

This proposal establishes a Tenant Assistance Fund for Hazardous Housing ("Fund"). At the discretion of the Director of the Human Services Agency ("HSA") or his/her designee ("Director"), a tenant who has vacated or is vacating a residential unit or equivalent pursuant to a Fire Department and/or Department of Building Inspection order to vacate issued within the past seven days and meets other requirements may, at the Director's determination, receive rental assistance on a per residential unit basis, of up to 100% of the current established fair market rent for San Francisco plus an amount sufficient for utility service deposits, less the amount the tenant was paying in the residence he/she had to vacate, for up to a maximum of two years per unit. The proposal directs HSA to adopt a policy for the proposal's implementation within 60 days of its effective date. HSA may also provide eligible tenants with information and/or referrals to housing programs and/or supportive services.

In addition, the proposal establishes that code violations underpinning such orders to vacate, and City activities including administration and disbursements from the Fund, constitute nuisance abatement. An owner or other party the Director deems responsible must reimburse the City its nuisance abatement expenses. Where the responsible party fails to timely do so, the City Attorney may commence an action to recover these costs, as well as its attorney fees and litigation expenses, penalties as provided for in the proposal, and other recovery and relief as provided for elsewhere in State and local law. The City may also or alternatively impose a nuisance abatement lien. The proposal further requires the owner or other party

FILE NO. 170937

responsible for a building to notify each tenant of an order to vacate's contents and meaning, and the contents of this proposal.

Background Information

This legislative digest accompanies a substitute ordinance introduced before the Board of Supervisors on October 31, 2017. This proposal was introduced in its initial form on September 5, 2017.

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