

File No. 121066

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date December 3, 2012

Board of Supervisors Meeting Date _____

Cmte Board

- | | | |
|-------------------------------------|--------------------------|----------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

| | | |
|--------------------------|--------------------------|-------|
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Alisa Miller Date November 30, 2012

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Administrative Code - Hearings on Tenant Allegations of Landlord Harassment to Recover
2 Possession of the Tenant's Unit]

3 **Ordinance amending San Francisco Administrative Code Chapter 37 (Residential Rent**
4 **Stabilization and Arbitration Ordinance), Section 37.9, to add new Subsection 37.9(I),**
5 **providing for hearings at the Rent Board on tenant allegations of landlord harassment**
6 **constituting a wrongful endeavor to recover possession of the tenant's unit.**

7 NOTE: Additions are *single-underline italics Times New Roman font*;
8 deletions are *strike-through italics Times New Roman font*.
9 Board amendment additions are double-underlined Arial font;
10 Board amendment deletions are ~~strikethrough Arial font~~.

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

12
13 Section 1. The San Francisco Administrative Code is hereby amended by amending
14 Section 37.9, to read as follows:

15
16 SEC. 37.9. EVICTIONS.

17 Notwithstanding Section 37.3, this Section shall apply as of August 24, 1980, to all
18 landlords and tenants of rental units as defined in Section 37.2(r).

19 (a) A landlord shall not endeavor to recover possession of a rental unit unless:

20 (1) The tenant:

21 (A) Has failed to pay the rent to which the landlord is lawfully entitled under the oral or
22 written agreement between the tenant and landlord:

23 (i) Except that a tenant's nonpayment of a charge prohibited by Section 919.1 of the
24 Police Code shall not constitute a failure to pay rent; and
25

1 (ii) Except that, commencing August 10, 2001, to and including February 10, 2003, a
2 landlord shall not endeavor to recover or recover possession of a rental unit for failure of a
3 tenant to pay that portion of rent attributable to a capital improvement passthrough certified
4 pursuant to a decision issued after April 10, 2000, where the capital improvement passthrough
5 petition was filed prior to August 10, 2001, and a landlord shall not impose any late fee(s)
6 upon the tenant for such non-payment of capital improvements costs; or

7 (B) Habitually pays the rent late; or

8 (C) Gives checks which are frequently returned because there are insufficient funds in
9 the checking account; or

10 (2) The tenant has violated a lawful obligation or covenant of tenancy other than the
11 obligation to surrender possession upon proper notice or other than an obligation to pay a
12 charge prohibited by Police Code Section 919.1, and failure to cure such violation after having
13 received written notice thereof from the landlord.

14 (A) Provided that notwithstanding any lease provision to the contrary, a landlord shall
15 not endeavor to recover possession of a rental unit as a result of subletting of the rental unit
16 by the tenant if the landlord has unreasonably withheld the right to sublet following a written
17 request by the tenant, so long as the tenant continues to reside in the rental unit and the
18 sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to
19 respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written
20 request, the tenant's request shall be deemed approved by the landlord.

21 (B) Provided further that where a rental agreement or lease provision limits the number
22 of occupants or limits or prohibits subletting or assignment, a landlord shall not endeavor to
23 recover possession of a rental unit as a result of the addition to the unit of a tenant's child,
24 parent, grandchild, grandparent, brother or sister, or the spouse or domestic partner (as
25 defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as a result of

1 the addition of the spouse or domestic partner of a tenant, so long as the maximum number of
2 occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord has
3 unreasonably refused a written request by the tenant to add such occupant(s) to the unit. If
4 the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the
5 tenant's written request, the tenant's request shall be deemed approved by the landlord. A
6 landlord's reasonable refusal of the tenant's written request may not be based on the
7 proposed additional occupant's lack of creditworthiness, if that person will not be legally
8 obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the
9 tenant's written request may be based on, but is not limited to, the ground that the total
10 number of occupants in a unit exceeds (or with the proposed additional occupant(s) would
11 exceed) the lesser of (i) or (ii):

12 (i) Two persons in a studio unit, three persons in a one-bedroom unit, four persons in a
13 two-bedroom unit, six persons in a three-bedroom unit, or eight persons in a four-bedroom
14 unit; or

15 (ii) The maximum number permitted in the unit under state law and/or other local codes
16 such as the Building, Fire, Housing and Planning Codes; or

17 (3) The tenant is committing or permitting to exist a nuisance in, or is causing
18 substantial damage to, the rental unit, or is creating a substantial interference with the
19 comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such
20 nuisance, damage or interference is specifically stated by the landlord in writing as required
21 by Section 37.9(c); or

22 (4) The tenant is using or permitting a rental unit to be used for any illegal purpose; or

23 (5) The tenant, who had an oral or written agreement with the landlord which has
24 terminated, has refused after written request or demand by the landlord to execute a written
25 extension or renewal thereof for a further term of like duration and under such terms which are

1 materially the same as in the previous agreement; provided, that such terms do not conflict
2 with any of the provisions of this Chapter; or

3 (6) The tenant has, after written notice to cease, refused the landlord access to the
4 rental unit as required by State or local law; or

5 (7) The tenant holding at the end of the term of the oral or written agreement is a
6 subtenant not approved by the landlord; or

7 (8) The landlord seeks to recover possession in good faith, without ulterior reasons and
8 with honest intent:

9 (i) For the landlord's use or occupancy as his or her principal residence for a period of
10 at least 36 continuous months;

11 (ii) For the use or occupancy of the landlord's grandparents, grandchildren, parents,
12 children, brother or sister, or the landlord's spouse, or the spouses of such relations, as their
13 principal place of residency for a period of at least 36 months, in the same building in which
14 the landlord resides as his or her principal place of residency, or in a building in which the
15 landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i). For
16 purposes of this Section 37.9(a)(8)(ii), the term spouse shall include domestic partners as
17 defined in San Francisco Administrative Code Sections 62.1 through 62.8.

18 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who become owners of
19 record of the rental unit on or before February 21, 1991, the term "landlord" shall be defined
20 as an owner of record of at least 10 percent interest in the property or, for Section 37.9(a)(8)(i)
21 only, two individuals registered as domestic partners as defined in San Francisco
22 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
23 least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who become
24 owners of record of the rental unit after February 21, 1991, the term "landlord" shall be
25 defined as an owner of record of at least 25 percent interest in the property or, for Section

1 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco
2 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at
3 least 25 percent.

4 (iv) A landlord may not recover possession under this Section 37.9(a)(8) if a
5 comparable unit owned by the landlord is already vacant and is available, or if such a unit
6 becomes vacant and available before the recovery of possession of the unit. If a comparable
7 unit does become vacant and available before the recovery of possession, the landlord shall
8 rescind the notice to vacate and dismiss any action filed to recover possession of the
9 premises. Provided further, if a noncomparable unit becomes available before the recovery of
10 possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the
11 tenant is paying, with upward or downward adjustments allowed based upon the condition,
12 size, and other amenities of the replacement unit. Disputes concerning the initial rent for the
13 replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of good
14 faith if a landlord times the service of the notice, or the filing of an action to recover
15 possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a
16 replacement unit.

17 (v) It shall be rebuttably presumed that the landlord has not acted in good faith if the
18 landlord or relative for whom the tenant was evicted does not move into the rental unit within
19 three months and occupy said unit as that person's principal residence for a minimum of 36
20 continuous months.

21 (vi) Once a landlord has successfully recovered possession of a rental unit pursuant to
22 Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of any
23 other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this Section
24 that only one specific unit per building may be used for such occupancy under Section
25 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under

1 Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with
2 the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that
3 disability or other similar hardship prevents him or her from occupying a unit which was
4 previously occupied by the landlord.

5 (vii) If any provision or clause of this amendment to Section 37.9(a)(8) or the
6 application thereof to any person or circumstance is held to be unconstitutional or to be
7 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other
8 chapter provisions, and clauses of this Chapter are held to be severable; or

9 (9) The landlord seeks to recover possession in good faith in order to sell the unit in
10 accordance with a condominium conversion approved under the San Francisco subdivision
11 ordinance and does so without ulterior reasons and with honest intent; or

12 (10) The landlord seeks to recover possession in good faith in order to demolish or to
13 otherwise permanently remove the rental unit from housing use and has obtained all the
14 necessary permits on or before the date upon which notice to vacate is given, and does so
15 without ulterior reasons and with honest intent; provided that a landlord who seeks to recover
16 possession under this Section 37.9(a)(10) shall pay relocation expenses as provided in
17 Section 37.9C except that a landlord who seeks to demolish an unreinforced masonry building
18 pursuant to Building Code Chapters 16B and 16C must provide the tenant with the relocation
19 assistance specified in Section 37.9A(f) below prior to the tenant's vacating the premises; or

20 (11) The landlord seeks in good faith to remove temporarily the unit from housing use
21 in order to be able to carry out capital improvements or rehabilitation work and has obtained
22 all the necessary permits on or before the date upon which notice to vacate is given, and does
23 so without ulterior reasons and with honest intent. Any tenant who vacates the unit under such
24 circumstances shall have the right to reoccupy the unit at the prior rent adjusted in
25 accordance with the provisions of this Chapter. The tenant will vacate the unit only for the

1 minimum time required to do the work. On or before the date upon which notice to vacate is
2 given, the landlord shall advise the tenant in writing that the rehabilitation or capital
3 improvement plans are on file with the Central Permit Bureau of the Department of Building
4 Inspection and that arrangements for reviewing such plans can be made with the Central
5 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of
6 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as
7 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be
8 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;
9 provided, however, that such time period may be extended by the Board or its Administrative
10 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to
11 implement the application procedure. Any landlord who seeks to recover possession under
12 this Section 37.9(a)(11) shall pay relocation expenses as provided in Section 37.9C or

13 (12) The landlord seeks to recover possession in good faith in order to carry out
14 substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary
15 permits on or before the date upon which notice to vacate is given, and does so without
16 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor
17 to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this
18 Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; Any
19 landlord who seeks to recover possession under this Section 37.9(a)(12) shall pay relocation
20 expenses as provided in Section 37.9C; or

21 (13) The landlord wishes to withdraw from rent or lease all rental units within any
22 detached physical structure and, in addition, in the case of any detached physical structure
23 containing three or fewer rental units, any other rental units on the same lot, and complies in
24 full with Section 37.9A with respect to each such unit; provided, however, that guestrooms or
25 efficiency units within a residential hotel, as defined in Section 50519 of the Health and Safety

1 Code, may not be withdrawn from rent or lease if the residential hotel has a permit of
2 occupancy issued prior to January 1, 1990, and if the residential hotel did not send a notice of
3 intent to withdraw the units from rent or lease (Administrative Code Section 37.9A(f),
4 Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1,
5 2004; or

6 (14) The landlord seeks in good faith to temporarily recover possession of the unit
7 solely for the purpose of effecting lead remediation or abatement work, as required by San
8 Francisco Health Code Articles 11 or 26. The tenant will vacate the unit only for the minimum
9 time required to do the work. The relocation rights and remedies, established by San
10 Francisco Administrative Code Chapter 72, including but not limited to, the payment of
11 financial relocation assistance, shall apply to evictions under this Section 37.9(a)(14).

12 (15) The landlord seeks to recover possession in good faith in order to demolish or to
13 otherwise permanently remove the rental unit from housing use in accordance with the terms
14 of a development agreement entered into by the City under Chapter 56 of the San Francisco
15 Administrative Code.

16 (16) The tenant's Good Samaritan Status (Section 37.2(a)(1)(D)) has expired, and the
17 landlord exercises the right to recover possession by serving a notice of termination of
18 tenancy under this Section 37.9(a)(16) within 60 days after expiration of the Original and any
19 Extended Good Samaritan Status Period.

20 (b) A landlord who resides in the same rental unit with his or her tenant may evict said
21 tenant without just cause as required under Section 37.9(a) above.

22 (c) A landlord shall not endeavor to recover possession of a rental unit unless at least
23 one of the grounds enumerated in Section 37.9(a) or (b) above is the landlord's dominant
24 motive for recovering possession and unless the landlord informs the tenant in writing on or
25 before the date upon which notice to vacate is given of the grounds under which possession is

1 sought and that advice regarding the notice to vacate is available from the Residential Rent
2 Stabilization and Arbitration Board, before endeavoring to recover possession. A copy of all
3 notices to vacate except three-day notices to vacate or pay rent and a copy of any additional
4 written documents informing the tenant of the grounds under which possession is sought shall
5 be filed with the Board within 10 days following service of the notice to vacate. The District
6 Attorney shall determine whether the units set forth on the list compiled in accordance with
7 Section 37.6(k) are still being occupied by the tenant who succeeded the tenant upon whom
8 the notice was served. In cases where the District Attorney determines that Section 37.9(a)(8)
9 has been violated, the District Attorney shall take whatever action he deems appropriate
10 under this Chapter or under State law.

11 (d) No landlord may cause a tenant to quit involuntarily or threaten to bring any action
12 to recover possession, or decrease any services, or increase the rent, or take any other action
13 where the landlord's dominant motive is retaliation for the tenant's exercise of any rights under
14 the law. Such retaliation shall be a defense to any action to recover possession. In an action
15 to recover possession of a rental unit, proof of the exercise by the tenant of rights under the
16 law within six months prior to the alleged act of retaliation shall create a rebuttable
17 presumption that the landlord's act was retaliatory.

18 (e) It shall be unlawful for a landlord or any other person who willfully assists the
19 landlord to endeavor to recover possession or to evict a tenant except as provided in Section
20 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant
21 or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a
22 substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a
23 misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in
24 Section 37.10A. Any waiver by a tenant of rights under this Chapter except as provided in
25 Section 37.10A(g), shall be void as contrary to public policy.

1 (f) Whenever a landlord wrongfully endeavors to recover possession or recovers
2 possession of a rental unit in violation of Sections 37.9 and/or 37.10 as enacted herein, the
3 tenant or Board may institute a civil proceeding for injunctive relief, money damages of not
4 less than three times actual damages, (including damages for mental or emotional distress),
5 and whatever other relief the court deems appropriate. In the case of an award of damages
6 for mental or emotional distress, said award shall only be trebled if the trier of fact finds that
7 the landlord acted in knowing violation of or in reckless disregard of Section 37.9 or 37.10A
8 herein. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant
9 to order of the court. The remedy available under this Section 37.9(f) shall be in addition to
10 any other existing remedies which may be available to the tenant or the Board.

11 (g) The provisions of this Section 37.9 shall apply to any rental unit as defined in
12 Sections 37.2(r)(4)(A) and 37.2(r)(4)(B), including where a notice to vacate/quit any such
13 rental unit has been served as of the effective date of this Ordinance No. 250-98 but where
14 any such rental unit has not yet been vacated or an unlawful detainer judgment has not been
15 issued as of the effective date of this Ordinance No. 250-98.

16 (h) With respect to rental units occupied by recipients of tenant-based rental
17 assistance, the notice requirements of this Section 37.9 shall be required in addition to any
18 notice required as part of the tenant-based rental assistance program, including but not limited
19 to the notice required under 24 CFR Section 982.310(e)(2)(ii).

20 (i) The following additional provisions shall apply to a landlord who seeks to recover a
21 rental unit by utilizing the grounds enumerated in Section 37.9(a)(8):

22 (1) A landlord may not recover possession of a unit from a tenant under Section
23 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that
24 any tenant in the rental unit:
25

1 (A) Is 60 years of age or older and has been residing in the unit for 10 years or more;
2 or

3 (B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing in
4 the unit for 10 years or more, or is catastrophically ill within the meaning of Section
5 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

6 (i) A "disabled" tenant is defined for purposes of this Section 37.9(i)(1)(B) as a person
7 who is disabled or blind within the meaning of the federal Supplemental Security
8 Income/California State Supplemental Program (SSI/SSP), and who is determined by
9 SSI/SSP to qualify for that program or who satisfies such requirements through any other
10 method of determination as approved by the Rent Board;

11 (ii) A "catastrophically ill" tenant is defined for purposes of this Section 37.9(i)(1)(B) as
12 a person who is disabled as defined by Section 37.9(i)(1)(B)(i), and who is suffering from a life
13 threatening illness as certified by his or her primary care physician.

14 (2) The foregoing provisions of Sections 37.9(i)(1)(A) and (B) shall not apply where
15 there is only one rental unit owned by the landlord in the building, or where each of the rental
16 units owned by the landlord in the same building where the landlord resides (except the unit
17 actually occupied by the landlord) is occupied by a tenant otherwise protected from eviction by
18 Sections 37.9(i)(1)(A) or (B) and where the landlord's qualified relative who will move into the
19 unit pursuant to Section 37.9(a)(8) is 60 years of age or older.

20 (3) The provisions established by this Section 37.9(i) include, but are not limited to, any
21 rental unit where a notice to vacate/quit has been served as of the date this amendment takes
22 effect but where the rental unit has not yet been vacated or an unlawful detainer judgment has
23 not been issued.

24 (4) Within 30 days of personal service by the landlord of a written request, or, at the
25 landlord's option, a notice of termination of tenancy under Section 37.9(a)(8), the tenant must

1 submit a statement, with supporting evidence, to the landlord if the tenant claims to be a
2 member of one of the classes protected by Section 37.9(i). The written request or notice shall
3 contain a warning that a tenant's failure to submit a statement within the 30 day period shall
4 be deemed an admission that the tenant is not protected by Section 37.9(i). The landlord shall
5 file a copy of the request or notice with the Rent Board within 10 days of service on the tenant.
6 A tenant's failure to submit a statement within the 30 day period shall be deemed an
7 admission that the tenant is not protected by Section 37.9(i). A landlord may challenge a
8 tenant's claim of protected status either by requesting a hearing with the Rent Board or, at the
9 landlord's option, through commencement of eviction proceedings, including service of a
10 notice of termination of tenancy. In the Rent Board hearing or the eviction action, the tenant
11 shall have the burden of proof to show protected status. No civil or criminal liability under
12 Section 37.9(e) or (f) shall be imposed upon a landlord for either requesting or challenging a
13 tenant's claim of protected status.

14 (5) This Section 37.9(i) is severable from all other sections and shall be of no force or
15 effect if any temporary moratorium on owner/relative evictions adopted by the Board of
16 Supervisors after June 1, 1998 and before October 31, 1998 has been invalidated by the
17 courts in a final decision.

18 (j) The following additional provision shall apply to a landlord who seeks to recover a
19 rental unit by utilizing the grounds enumerated in Section 37.9(a)(8):

20 (1) It shall be a defense to an eviction under Section 37.9(a)(8) if any tenant in the
21 rental unit has a custodial or family relationship with a child under the age of 18 who is
22 residing in the unit, the tenant with the custodial or family relationship has resided in the unit
23 for 12 months or more, and the effective date of the notice of termination of tenancy falls
24 during the school year. The term "school year" as used in this Section 37.9(j) means the first
25

1 day of instruction for the Fall Semester through the last day of instruction for the Spring
2 Semester, as posted on the San Francisco Unified School District website for each year.

3 (2) The foregoing provision Section 37.9(j)(1) shall not apply where there is only one
4 rental unit owned by the landlord in the building, or where the owner who will move into the
5 unit pursuant to a Section 37.9(a)(8) eviction has a custodial or family relationship with a child
6 under the age of 18 who will reside in the unit with the owner.

7 (3) Within 30 days of personal service by the landlord of a written request, or, at the
8 landlord's option, a notice of termination of tenancy under Section 37.9(a)(8), the tenant must
9 submit a statement with supporting evidence to the landlord, if the tenant claims to be a
10 member of the class protected from eviction by Section 37.9(j). The landlord's written request
11 or notice shall contain a warning that a tenant's failure to submit a statement within the 30 day
12 period shall be deemed an admission that the tenant is not protected from eviction by Section
13 37.9(j). The landlord shall file a copy of the landlord's request or notice with the Rent Board
14 within 10 days of service on the tenant. A tenant's failure to submit a statement within the 30
15 day period shall be deemed an admission that the tenant is not protected from eviction by
16 Section 37.9(j). A landlord may challenge a tenant's claim of protected status either by
17 requesting a hearing with the Rent Board or, at the landlord's option, through commencement
18 of eviction proceedings, including service of a notice of termination of tenancy. In the Rent
19 Board hearing or the eviction action, the tenant shall have the burden of proof to show
20 protected status. No civil or criminal liability under Section 37.9(e) or (f) shall be imposed upon
21 a landlord for either requesting or challenging a tenant's claim of protected status.

22 (4) For purposes of this Section 37.9(j), the term "custodial relationship" means that the
23 person is a legal guardian of the child, or has a court-recognized caregiver authorization
24 affidavit for the child, or that the person has provided full-time custodial care of the child
25 pursuant to an agreement with the child's legal guardian or court-recognized caregiver and

1 has been providing that care for at least one year or half of the child's lifetime, whichever is
2 less. The term "family relationship" means that the person is the parent, grandparent, brother,
3 sister, aunt or uncle of the child, or the spouse or domestic partner of such relations.

4 (k) Disclosure of Rights to Tenants Before and After Sale of Rental Units Subject to
5 Section 37.9.

6 (1) Disclosure to Tenants By Seller of the Property. Before property containing rental
7 units subject to Section 37.9 may be sold, the owner/seller shall disclose to tenants of the
8 property the rights of tenants during and after the sale of the property. This disclosure shall be
9 in writing and shall include:

10 (A) A statement in bold type of at least 12 points that tenants can not be evicted or
11 asked to move solely because a property is being sold or solely because a new owner has
12 purchased that property.

13 (B) A statement in bold type of at least 12 points that tenants cannot have their rent
14 increased above that permitted by Chapter 37 solely because a property is being sold or
15 solely because a new owner has purchased that property.

16 (C) A statement in bold type of at least 12 points that the rental agreements of tenants
17 cannot be materially changed solely because a property is being sold or solely because a new
18 owner has purchased that property.

19 (D) A statement that the owner's right to show units to prospective buyers is governed
20 by California Civil Code section 1954, including a statement that tenants must receive notice
21 as provided by Section 1954, and a statement that a showing must be conducted during
22 normal business hours unless the tenant consents to an entry at another time.

23 (E) A statement that tenants are not required to complete or sign any estoppel
24 certificates or estoppel agreements, except as required by law or by that tenant's rental
25 agreement. The statement shall further inform tenants that tenant rights may be affected by

1 an estoppel certificate or agreement and that the tenants should seek legal advice before
2 completing or signing an estoppel certificate or agreement.

3 (F) A statement that information on these and other tenant's rights are available at the
4 San Francisco Rent Board, 25 Van Ness Ave, San Francisco, California, and at the
5 counseling telephone number of the Rent Board and at its web site.

6 (2) Disclosure to Tenants by Purchaser of the Property. Within 30 days of acquiring title
7 to rental units subject to Section 37.9, the new purchaser/owner shall disclose to tenants of
8 the property the rights of tenants following this sale of the property. This disclosure shall be in
9 writing and shall include:

10 (A) A statement in bold type of at least 12 points that tenants cannot be evicted or
11 asked to move solely because a new owner has purchased that property.

12 (B) A statement in bold type of at least 12 points that tenants cannot have their rent
13 increased above that permitted by Chapter 37 solely because a new owner has purchased
14 that property.

15 (C) A statement in bold type of at least 12 points that the rental agreements of tenants
16 cannot be materially changed solely because a new owner has purchased that property.

17 (D) A statement in bold type of at least 12 points that any tenants, sub-tenants or
18 roommates who were lawful occupants at the time of the sale remain lawful occupants.

19 (E) A statement in bold type of at least 12 points: that tenants' housing services as
20 defined in Section 37.2(r) first paragraph cannot be changed or severed from the tenancy
21 solely because a new owner has purchased that property; and that tenants' housing services
22 as defined in Section 37.2(r) second paragraph that were supplied in connection with the use
23 or occupancy of a unit at the time of sale (such as laundry rooms, decks, or storage space)
24 cannot be severed from the tenancy by the new purchaser/owner without just cause as
25 required by Section 37.9(a).

1 (l) Hearings on Alleged Wrongful Endeavor To Recover Possession Through Tenant
2 Harassment.

3 Upon receipt of a tenant report alleging wrongful endeavor to recover possession of the
4 tenant's unit through harassment, the Board through its Executive Director shall send a notice
5 acknowledging receipt of the report and summarizing the rights and responsibilities of landlords and
6 tenants regarding possession of, and eviction from, residential rental units. Upon consideration of
7 such report, the Executive Director may schedule an investigative hearing on the allegations before a
8 Board Administrative Law Judge, where both the tenant and the landlord may appear and make oral
9 and/or written presentations, including presentation of other witnesses. Following such hearing, the
10 Administrative Law Judge shall provide the Board with a summary of evidence produced at the
11 hearing.

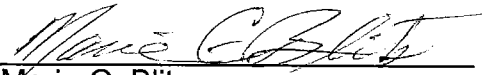
12 Upon review of the evidence, the Board shall consider whether to undertake any further
13 proceedings such as, but not limited to, civil litigation pursuant to Section 37.9(f), or referral to the
14 District Attorney (see Section 37.9(e)).

16 Section 2. Effective Date. This ordinance shall become effective 30 days from the
17 date of passage.

19 //
20 //
21 //
22 //
23 //
24 //

1 Section 3. This section is uncodified. In enacting this Ordinance, the Board intends to
2 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
3 punctuation, charts, diagrams, or any other constituent part of the Administrative Code that
4 are explicitly shown in this legislation as additions, deletions, Board amendment additions,
5 and Board amendment deletions in accordance with the "Note" that appears under the official
6 title of the legislation.

7
8
9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: 
13 Marie C. Blits
14 Deputy City Attorney

LEGISLATIVE DIGEST

[Administrative Code - Hearings on Tenant Allegations of Landlord Harassment to Recover Possession of the Tenant's Unit]

Ordinance amending San Francisco Administrative Code, Chapter 37 (Residential Rent Stabilization and Arbitration Ordinance), Section 37.9, to add new Subsection 37.9(l), providing for hearings at the Rent Board on tenant allegations of landlord harassment constituting a wrongful endeavor to recover possession of the tenant's unit.

Existing Law

Administrative Code Chapter 37 "Residential Rent Stabilization and Arbitration Ordinance" provides rent control and eviction protections for tenants in units subject to that Ordinance, which includes most residential rental units built before June 1979 ("Rent Ordinance"). Covered tenants may only be evicted for one of 15 just causes, ranging from non-payment of rent to owner move-in evictions (see, Section 37.9).

Amendments to Current Law

The proposed legislation would add a mechanism for hearing tenant complaints that a landlord is attempting to circumvent utilization of one of the 15 just causes for eviction, by harassing the tenant into vacating the unit. (Administrative Code Section 37.9(l).)

If a tenant reports such harassment to the Rent Board, the Executive Director will send a notice summarizing rights and responsibilities of landlords and tenants under the Rent Ordinance, and may schedule an investigative hearing on the tenant's allegations before an Administrative Law Judge. Both the tenant and the landlord may appear and make oral and/or written presentations, including presentation of other witnesses.

The Administrative Law Judge will then provide the Rent Board with a summary of evidence produced at the hearing. Upon review, the Rent Board will consider whether to undertake any further proceedings, such as, but not limited to, civil litigation pursuant to Section 37.9(f), or referral to the District Attorney (see Section 37.9(e)).

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Delene Wolf, Executive Director, Rent Board
George Gascon, District Attorney

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: November 6, 2012

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Olague on October 30, 2012. This matter is being referred to your department informational purposes only and no additional action is required.

File No. 121066

Ordinance amending San Francisco Administrative Code, Chapter 37 (Residential Rent Stabilization and Arbitration Ordinance), Section 37.9, to add new Subsection 37.9(l), providing for hearings at the Rent Board on tenant allegations of landlord harassment constituting a wrongful endeavor to recover possession of the tenant's unit.

If you do wish to submit any reports or documentation to be included as part of the file, please send those to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: David Pfeifer, Chief Assistant of Special Operations, District Attorney

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee:
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee:
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:


- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

Subject:

The text is listed below or attached:

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

121066