File No. 130968 Committee Item No. 4
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Economic Development **Date** November 25, 2013

Board of Supervisors Meeting **Date** _____

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Completed by: Andrea Ausberry **Date** November 21, 2013
Completed by: _____ **Date** _____

FILE NO. 130968 SUBSTITUTED 11/5/2013 ORDINANCE NO.

[Administrative, Planning Codes - Ellis Act Displaced Emergency Assistance Ordinance]

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

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

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

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130968 and is incorporated herein by reference.

(b) On November 21, 2013, the Planning Commission, in Resolution No. 19029, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 130968, and is incorporated herein by reference.

(c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code Amendments will serve the public necessity, convenience, and welfare for the reasons set forth in Planning Commission Resolution No. 19029 and the Board incorporates such reasons herein by reference. A copy of Planning Commission Resolution No. 19029 is on file with the Board of Supervisors in File No. 130968.

Section 2. The Administrative Code is hereby amended by revising Sections 24.8 and 37.6, to read as follows:

SEC. 24.8. PREFERENCE IN ALL CITY AFFORDABLE HOUSING PROGRAMS FOR CERTIFICATE OF PREFERENCE HOLDERS *AND DISPLACED TENANTS*.

This Section shall apply to all programs related to the provision of affordable housing, unless specified otherwise. To the extent permitted by law, the Mayor's Office of Housing *and Community Development ("MOHCD")* or its successor shall give, or require project sponsors or their successors in interest funded through MOH*CD* to give, preference in occupying units or receiving assistance under all City affordable housing programs*, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City,* first to Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521,who meet all of the qualifications for the unit or assistance*; and second to any Displaced Tenant, as defined herein, who meets all of the qualifications for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the*

landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development going through the initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit offered through application of the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.

~~*The Mayor's Office of Housing shall develop procedures and amend its regulations within 90 days of the effective date of this legislation to implement the requirements of this Section*~~ *MOHCD shall implement the Certificate of Preference Holder requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of the ordinance creating the Displaced Tenant preference*. Said procedures and regulations shall be subject to approval by Resolution of the Board of Supervisors. *The requirements of this paragraph are directory rather than mandatory.*

For purposes of this Section, "Displaced Tenant" shall mean any tenant residing in San Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the

corresponding provisions of the Rent Ordinance, cited above, and, who, as of the date of receipt of the notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life threatening illness as certified by his or her primary care physician. MOHCD shall establish a process for a tenant to verify his or her status as a "Displaced Tenant," which, at a minimum, shall require a tenant to show: (i) the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market; (ii) the tenant meets the ten or five year residency requirement stated above; and (iii) the tenant either: (A) is listed on the notice of withdrawal; (B) is listed on the lease for the unit in question; or (C) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she has lived in the unit for the required five or ten year period, as applicable. If at any time prior to moving out of his or her unit, a tenant's landlord rescinds the notice of withdrawal from the rental market, such tenant shall no longer qualify as a "Displaced Tenant". Additionally, if a person disputes a MOHCD determination that he or she does not qualify as a "Displaced Tenant" under this Section, such person shall have the right to a hearing conducted by a Rent Board Administrative Law Judge (as defined in Administrative Code Section 37.2(f)), with MOHCD as the responding party.

The Board of Supervisors shall hold a hearing on the status of this *Section*~~*legislation*~~ within 2 years of the effective date of *Ordinance 232-08*~~*this legislation*~~ to assess its impact, or at such time as the ~~*Mayor's Office of Housing*~~*MOHCD* certifies to the Board of Supervisors that, in any one fiscal year, the percent of Residential Certificate of Preference holders obtaining an affordable housing unit by taking advantage of the *applicable* preferences in this *Section*~~*legislation*~~ in all of the City's affordable housing programs combined exceeds 50% of the total number of units made available through the City's affordable housing programs in that year.

The Board of Supervisors shall hold a hearing to assess the impact of the Displaced Tenant preference within one year of the effective date of the ordinance creating the Displaced Tenant preference.

SEC. 37.6. POWERS AND DUTIES.

In addition to other powers and duties set forth in this Chapter, and in addition to powers under the Charter and under other City Codes, including powers and duties under Administrative Code Chapter 49 ("Interest Rates on Security Deposits"), the Board shall have the power to:

* * * *

(o) As provided by Administrative Code Section 24.8, utilize Administrative Law Judges to hear and decide petitions from persons who dispute the Mayor's Office of Housing and Community Development's determination that such person does not qualify as a "Displaced Tenant" (as defined in Administrative Code Section 24.8).

Section 3. The Administrative Code is hereby amended by revising Sections 10.100-110, 10.100-370, and 43.3.4 to read as follows:

SEC. 10.100-110. MAYOR'S HOUSING AFFORDABILITY FUND.

(a) Establishment of Fund. The Mayor's Housing Affordability Fund is created as a category two fund to receive any prior legally binding obligations, any grants, gifts, bequests from private sources for the purposes *cited* in *sub*section (b), any monies repaid to the City as a result of loans made by *the* City to developers to assist in the development of affordable housing, any repayments of monies to *the* City where the City is beneficiary under a promissory note which was acquired as a result of *the* City's housing affordability assistance,

any repayments of loans made from this fund and any monies otherwise appropriated to the fund.

(b) Use of Fund. The fund shall be used exclusively for the purpose of providing financial assistance to for-profit and nonprofit housing developers, where the contribution of monies from the fund will allow units in a project to be affordable to persons and families of low and moderate income. City departments may recover any costs of administering any project receiving funds from the Mayor's Housing Affordability Fund. The Mayor's Office of Housing *and Community Development ("MOHCD")* shall develop procedures and amend its regulations such that, for all projects funded by this fund, it requires the project sponsor or its successor in interest to give preference in occupying units or receiving assistance first to Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit or assistance*; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new*

residential development going through the initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit offered through application of the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's preference terminates. ~~*The Mayor's Office of Housing shall develop procedures and amend its regulations within 90 days of the effective date of this legislation to implement the requirements of this Section.*~~

MOHCD shall implement the Certificate of Preference Holder requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of the ordinance creating the Displaced Tenant preference. Said procedures and regulations shall be subject to approval by Resolution of the Board of Supervisors. *The requirements of this paragraph are directory rather than mandatory.*

SEC. 10.100-370. SAN FRANCISCO HOPE SF FUND.

(a) Establishment of Fund. The HOPE SF Fund is hereby established as a category four fund for the purpose of assisting in the replacement and/or rehabilitation of distressed public housing projects in the City and County of San Francisco.

* * * *

(d) Administration of Fund. The fund shall be administered by the Mayor's Office of Housing *and Community Development ("MOHCD").* The Director of *MOHCD*~~*the Mayor's Office of Housing*~~ shall promulgate such rules and regulations as he or she may deem appropriate to carry out the provisions of the fund. Such rules and regulations shall be developed in

consultation with any appropriate agencies or organizations with which the Director, or his or her designee, may choose to consult. The rules and regulations shall be subject to a public hearing and approved by resolution of the Board of Supervisors. ~~*The Mayor's Office of Housing*~~ *MOHCD* shall develop procedures such that, for all projects funded by the HOPE SF Fund, *MOHCD* ~~*the Mayor's Office of Housing*~~requires the project sponsor or its successor in interest to give preference in occupying units first to any current occupants of a housing development receiving Funds, ~~*and*~~ second to Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit; *and third to any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development going through the initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit offered through application of the preference, but upon accepting and occupying a unit*

obtained using the preference, such Displaced Tenant's preference terminates. ~~*The Mayor's Office of Housing and Community Development shall develop procedures and amend its regulations within 90 days of the effective date of this legislation to implement the preference described in this Section.*~~

MOHCD shall implement the Certificate of Preference Holder requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of the ordinance creating the Displaced Tenant preference. Said procedures and regulations shall be subject to approval by Resolution of the Board of Supervisors. *The requirements of this paragraph are directory rather than mandatory.*

SEC. 43.3.4. PROPOSED USE OF BOND PROCEEDS.

Following payment of costs of issuance, 85 percent of the bond proceeds will be used for the development of affordable rental housing through the development account described in the regulations, and 15 percent of the bond proceeds will be used for downpayment assistance for low and moderate income first-time homebuyers through the downpayment assistance loan account described in the program regulations; including all legally permissible administrative costs related to the program. The Mayor's Office of Housing *and Community Development ("MOHCD")* shall develop procedures and amend its regulations such that, for all projects funded by this affordable housing and home ownership bond program, including multifamily rental projects and down payment assistance to individual households, it requires the project sponsor or its successor in interest to give preference in occupying units or receiving assistance first to Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the

Board in File No. 080521, who meet all of the qualifications for the unit or assistance; *and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development going through the initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit offered through application of the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.* ~~*The Mayor's Office of Housing shall develop procedures and amend its regulations within 90 days of the effective date of this legislation to implement the requirements of this Section.*~~

MOHCD shall implement the Certificate of Preference Holder requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of the ordinance creating the Displaced Tenant preference. Said procedures and

regulations shall be subject to approval by Resolution of the Board of Supervisors. *The requirements of this paragraph are directory rather than mandatory.*

Section 4. The Planning Code is hereby amended by revising Sections 413.10, 415.5, 415.6 and 415.7 to read as follows:

SEC. 413.10. CITYWIDE AFFORDABLE HOUSING FUND.

All monies contributed pursuant to Sections 413.6 or 413.8 or assessed pursuant to Section 413.9 shall be deposited in the special fund maintained by the Controller called the Citywide Affordable Housing Fund ("Fund"). The receipts in the Fund are hereby appropriated in accordance with law to be used solely to increase the supply of housing affordable to qualifying households subject to the conditions of this Section. *The Mayor's Office of Housing and Community Development ("MOHCD")* ~~*MOH*~~ shall develop procedures such that, for all projects funded by the Citywide Affordable Housing Fund, MOH*CD* requires the project sponsor or its successor in interest to give preference in occupying units first to Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet all of the qualifications for the unit; *and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A;*

(ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development going through the initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit offered through application of the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's preference terminates. ~~*The Mayor's Office of Housing shall develop procedures and amend its regulations within 90 days of the effective date of this legislation to implement the requirements of this Section*~~.

MOHCD shall implement the Certificate of Preference Holder requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of Ordinance No. 232-08, and MOHCD shall implement the Displaced Tenant preference requirements of this Section by developing procedures and amending its applicable regulations within 90 days of the effective date of the ordinance creating the Displaced Tenant preference. Said procedures and regulations shall be subject to approval by Resolution of the Board of Supervisors. *The requirements of this paragraph are directory rather than mandatory.*

The Fund shall be administered and expended by the Director of MOH*CD*, who shall have the authority to prescribe rules and regulations governing the Fund which are consistent with Section 413.1et seq. No portion of the Fund may be used, by way of loan or otherwise, to pay any administrative, general overhead, or similar expense of any entity.

SEC. 415.5. AFFORDABLE HOUSING FEE.

* * * *

(f) Use of Fees. All monies contributed pursuant to this Section shall be deposited in the special fund maintained by the Controller called the Citywide Affordable Housing Fund. ~~MOH~~ *The Mayor's Office of Housing and Community Development ("MOHCD")* shall use the funds in the following manner:

(1) Except as provided in subsection (2) below, the receipts in the Fund are hereby appropriated in accordance with law to be used to:

(*A*~~a~~) increase the supply of housing affordable to qualifying households subject to the conditions of this Section; and

(*B*~~b~~) provide assistance to low and moderate income homebuyers; and

(*C*~~c~~) pay the expenses of MOH*CD* in connection with monitoring and administering compliance with the requirements of the Program. MOH*CD* is authorized to use funds in an amount not to exceed $200,000 every 5 years to conduct follow-up studies under Section 415.9(e) and to update the affordable housing fee amounts as described above in Section 415.5(b). All other monitoring and administrative expenses shall be appropriated through the annual budget process or supplemental appropriation for MOH*CD*. The fund shall be administered and expended by MOH*CD*, which shall have the authority to prescribe rules and regulations governing the Fund which are consistent with this Section.

(2) "Small Sites Funds."

(A) Designation of Funds. MOH*CD* shall designate and separately account for 10% percent of all fees that it receives under Section 415.1et seq., excluding fees that are geographically targeted such as those in Sections 415.6(a)(1) and 827(b)(C), to support acquisition and rehabilitation of Small Sites ("Small Sites Funds"). MOH*CD* shall continue to divert 10 percent of all fees for this purpose until the Small Sites Funds reach a total of $15 million at which point, MOH*CD* will stop designating funds for this purpose. At such time as designated Small Sites Funds are expended and dip below $15 million, MOH*CD* shall start

designating funds again for this purpose, such that at no time the Small Sites Funds shall exceed $15 million. When the total amount of fees paid to the City under Section 415.1et seq. totals less than $10 million over the preceding 12 month period, MOH*CD* is authorized to temporarily divert funds from the Small Sites Fund for other purposes. MOH*CD* must keep track of the diverted funds, however, such that when the amount of fees paid to the City under Section 415.1et seq. meets or exceeds $10 million over the preceding 12 month period, MOH*CD* shall commit all of the previously diverted funds and 10 percent of any new funds, subject to the cap above, to the Small Sites Fund.

(B) Use of Small Sites Funds. The funds shall be used exclusively to acquire or rehabilitate "Small Sites" defined as properties consisting of less than 25 units. Units supported by monies from the fund shall be designated as housing affordable to qualifying households as defined in Section 415.1 for no less than 55 years. Properties supported by the Small Sites Funds must be either

(i) rental properties that will be maintained as rental properties;

(ii) vacant properties that were formerly rental properties as long as those properties have been vacant for a minimum of two years prior to the effective date of this legislation,

(iii) properties that have been the subject of foreclosure or

(iv) a Limited Equity Housing Cooperative as defined in Subdivision Code Sections 1399.1et seq. or a property owned or leased by a non-profit entity modeled as a Community Land Trust.

(C) Initial Funds. If, within 18 months from the date of adoption of this ordinance, MOH*CD* dedicates an initial one-time contribution of other eligible funds to be used initially as Small Sites Funds, MOH*CD* may use the equivalent amount of Small Sites Funds received

from fees for other purposes permitted by the Citywide Affordable Housing Fund until the amount of the initial one-time contribution is reached.

(D) Annual Report. At the end of each fiscal year, MOH*CD* shall issue a report to the Board of Supervisors regarding the amount of Small Sites Funds received from fees under this legislation, and a report of how those funds were used.

(E) Intent. In adopting this ordinance regarding Small Sites Funds, the Board of Supervisors does not intend to preclude MOH*CD* from expending other eligible sources of funding on Small Sites as described in this Section, or from allocating or expending more than $15 million of other eligible funds on Small Sites.

(3) For all projects funded by the Citywide Affordable Housing Fund, MOHCD requires the project sponsor or its successor in interest to give preference in occupying units first to Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who otherwise meet all of the requirements for a unit; and second to any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding

provisions of the Rent Ordinance; and (iii) for any new residential development going through the initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such development. The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit offered through application of the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's preference terminates. Otherwise, it is the policy of the City to treat all households equally in allocating affordable units under this Program.

SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.

If a project sponsor is eligible and elects to provide on-site units pursuant to Section 415.5(g), the development project shall meet the following requirements:

* * * *

(d) Marketing the Units: ~~*MOH*~~ *The Mayor's Office of Housing and Community Development ("MOHCD")* shall be responsible for overseeing and monitoring the marketing of affordable units under this Section. In general, the marketing requirements and procedures shall be contained in the Procedures Manual as amended from time to time and shall apply to the affordable units in the project. MOH*CD* may develop occupancy standards for units of different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of affordable units. MOH*CD* may require in the Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other requirements. MOH*CD* shall develop a list of minimum qualifications for marketing firms that market affordable units under Section 415.5et seq., referred to the Procedures Manual as Below Market Rate (BMR units). No developer marketing units under the Program shall be able to market affordable units except through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or conditions of approval shall specify that the marketing requirements and procedures

contained in the Procedures Manual as amended from time to time, shall apply to the affordable units in the project.

(1) Lottery: At the initial offering of affordable units in a housing project and when ownership units become available for re-sale in any housing project subject *to* this Program after the initial offering, MOH*CD* must require the use of a public lottery approved by MOH*CD* to select purchasers or tenants.

(2) Preferences: MOH*CD* shall create a lottery system that gives *the following* preference*s: (A)* first to Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications of the Program*; (B), ~~and~~* second to *any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and (iii) for any new residential development going through the initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such development; and (C) third to* people who live or work in San Francisco who meet the qualifications of the Program.

The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit offered through application of the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's preference terminates. MOH*CD* shall propose policies and procedures for implementing these preferences to the Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the ~~*Board of Supervisors*~~ *City* to treat all households equally in allocating affordable units under this Program.

SEC. 415.7. OFF-SITE AFFORDABLE HOUSING ALTERNATIVE.

If the project sponsor is eligible and selects pursuant to Section 415.5(g) to provide off-site units to satisfy the requirements of Section 415.1et seq., the project sponsor shall notify the Planning Department and *the Mayor's Office of Housing and Community Development ("MOHCD")* ~~*MOH*~~ of its intent as early as possible. The Planning Department and MOH*CD* shall provide an evaluation of the project's compliance with this Section prior to approval by the Planning Commission or Planning Department. The development project shall meet the following requirements:

* * * *

(e) Marketing the Units: MOH*CD* shall be responsible for overseeing and monitoring the marketing of affordable units under this Section. In general, the marketing requirements and procedures shall be contained in the Procedures Manual as amended from time to time and shall apply to the affordable units in the project. MOH*CD* may develop occupancy standards for units of different bedroom sizes in the Procedures Manual in order to promote an efficient allocation of affordable units. MOH*CD* may require in the Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other requirements. MOH*CD* shall develop a list of minimum qualifications for marketing firms that market affordable units under Section 415.1et seq., referred to the Procedures Manual as Below

Market Rate (BMR units). No project sponsor marketing units under the Program shall be able to market BMR units except through a firm meeting all of the minimum qualifications. The Notice of Special Restrictions or conditions of approval shall specify that the marketing requirements and procedures contained in the Procedures Manual as amended from time to time, shall apply to the affordable units in the project.

(1) Lottery: At the initial offering of affordable units in a housing project and when ownership units become available for resale in any housing project subject to this Program after the initial offering, MOH*CD* must require the use of a public lottery approved by MOH*CD* to select purchasers or tenants.

(2) Preferences: MOH*CD* shall create a lottery system that gives *the following* preference*s: (A)* first to Residential Certificate of Preference Holders under the San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program, as reprinted September 11, 2008 and effective October 1, 2008 and on file with the Clerk of the Board in File No. 080521, who meet the qualifications of the Program*; (B)* ~~*, and*~~ second to *any Displaced Tenant, as defined in Administrative Code Section 24.8, who meets all of the qualifications for the unit or assistance, provided that the following limitations shall apply to the Displaced Tenant preference: (i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the landlord filed with the Residential Rent Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, California Government Code Section 7060 et seq. and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), Administrative Code Sections 37.9(a)(13) and 37.9A; (ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, cited above, and the corresponding provisions of the Rent Ordinance; and*

(iii) for any new residential development going through the initial occupancy process, the Displaced Tenant preference shall apply only to twenty percent (20%) of the units in such development; and (C) third to people who live or work in San Francisco who meet the qualifications of the Program. *The Displaced Tenant's preference shall still apply even if such Displaced Tenant declines a unit offered through application of the preference, but upon accepting and occupying a unit obtained using the preference, such Displaced Tenant's preference terminates.* MOH*CD* shall propose policies and procedures for implementing these preferences to the Planning Commission for inclusion in the Procedures Manual. Otherwise, it is the policy of the ~~*Board of Supervisors*~~*City* to treat all households equally in allocating affordable units under this Program.

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

Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Evan A. Gross
Deputy City Attorney

n:\legana\as2013\1400072\00876785.doc

FILE NO. 130968

REVISED LEGISLATIVE DIGEST

(11/5/2013, Substituted)

[Administrative, Planning Codes - Ellis Act Displaced Emergency Assistance Ordinance]

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

Existing Law

State and City law govern the right of owners of residential rental units to evict tenants in order to go out of the rental business. Chief among these laws is the Ellis Act (Government Code Section 7060 et seq.) and the corresponding provisions of the San Francisco Rent Stabilization and Arbitration Ordinance ("Rent Ordinance").

City law currently establishes a preference in all affordable housing programs administered or funded by the City only for Residential Certificate of Preference Holders under the former San Francisco Redevelopment Agency's Property Owner and Occupant Preference Program. Neither State nor City law establishes a preference in these affordable housing programs for tenants displaced due to Ellis Act evictions.

Amendments to Current Law

This Ordinance proposes to establish a new preference for certain tenants who are subject to an Ellis Act eviction. The preference would apply in all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency housing programs administered or funded by the City, and is intended to apply after the preference for Certificate of Preference holders. To qualify for the new preference, a tenant must be someone residing in San Francisco who on or after January 1, 2012 has received a notice that his or her landlord plans to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, and, who, as of the date of receipt of the notice of withdrawal from the rental market, has resided in his or her unit continuously for: (i) at least ten years; or (ii) at least five years, if the tenant can verify that he or she is suffering from a life threatening illness as certified by his or her primary care physician (a "Displaced Tenant"). The proposed ordinance places the following limitations on the preference:

(i) a Displaced Tenant may apply the preference to existing, currently-occupied developments only for three years from the date the landlord filed with the Residential Rent

Stabilization and Arbitration Board ("Rent Board") a notice of intent to withdraw the tenant's unit pursuant to the Ellis Act;

(ii) a Displaced Tenant may apply the preference to new developments going through the initial occupancy process only for six years from the date the landlord filed with the Rent Board a notice of intent to withdraw the tenant's unit pursuant to the Ellis Act; and

(iii) for any new residential development going through the initial occupancy process, the preference shall apply only to twenty percent (20%) of the units in such development.

The preference continues to apply even if a Displaced Tenant declines a unit offered through application of the preference, but once a Displaced Tenant accepts and occupies a unit obtained using the preference, such Displaced Tenant's preference terminates.

In addition, the proposed ordinance requires the Mayor's Office of Housing and Community Development to develop procedures and regulations to implement the new preference, which will be subject to review and approval by the Board of Supervisors, and requires a Board of Supervisors hearing to assess the impact of the preference one year after the effective date of the proposed ordinance.

Background Information

There is an urgent need to assist San Francisco residents who are presently being displaced by Ellis Act evictions and facing, even by San Francisco standards, an unusually extreme housing shortage and crisis. While a longer term solution to the negative impacts of the Ellis Act is important, today's victims need help now. The intention of the new Displaced Tenant preference is to provide greater, and faster, access to the City's existing affordable housing programs for those tenants affected directly by an Ellis Act eviction.

This Legislative Digest accompanies the substitute ordinance introduced to the Board of Supervisors on November 5, 2013, which provides the following material changes to the proposed ordinance originally introduced on October 9, 2013:

(i) clarifying that if at any time prior to moving out of his or her unit, a tenant's landlord rescinds the notice of withdrawal from the rental market, such tenant shall no longer qualify as a "Displaced Tenant";

(ii) establishing a tenant's right to a hearing conducted by a Rent Board Administrative Law Judge, with MOHCD as the responding party, in the event that a person disputes a MOHCD determination that he or she does not qualify as a "Displaced Tenant"; and

(iii) amending the Rent Ordinance to establish the Rent Board's authority to hear such disputes.

Orig. - LU Clerk
CC3
Leg. Dep.
C Page

Member, Board of Supervisors
District 8

City and County of San Francisco

SCOTT WIENER
威善高

DATE: November 5, 2013

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Scott Wiener
Chairperson

RE: Land Use and Economic Development Committee
COMMITTEE REPORT

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
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AK

Pursuant to Board Rule 4.20, as Chair of the Land Use and Economic Development Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on November 26, 2013, as a Committee Report:

130968 **Administrative, Planning Codes - Ellis Act Displaced Emergency Assistance Ordinance**

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This matter will be heard in the Land Use and Economic Development Committee on November 25, 2013, at 1:30 p.m.

City Hall • 1 Dr. Carlton B. Goodlett Place • Room 244 • San Francisco, California 94102-4689 • (415) 554-6968
Fax (415) 554-6909 • TDD/TTY (415) 554-5227 • E-mail: Scott.Wiener@sfgov.org

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

October 9, 2013

Planning Commission and
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On October 1, 2013, Supervisor Chiu introduced the following proposed legislation:

File No. 130968

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board
Alisa Miller
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

Exempt from CEQA per CEQA Guidelines Section 15060(c)(2). N/a Project.
/s/ Nannie Turrell
October 10, 2013
2013.1468E

Miller, Alisa

From: Turrell, Nannie
Sent: Friday, November 08, 2013 9:11 AM
To: Miller, Alisa; Jones, Sarah
Cc: Pereira, Monica
Subject: RE: Re-Referral: BOS File No. 130968-2
Attachments: image001.png; image002.png; image003.png; image004.png; image005.png

The original environmental determination is still valid.

Nannie R. Turrell
Senior Environmental Planner

Planning Department, City and County of San Francisco
1650 Mission Street, Suite 400, San Francisco, CA 94103
Direct: 415-575-9047 **Fax:** 415-558-6409
Email: nannie.turrell@sfgov.org
Web: www.sfplanning.org

Planning Information Center (PIC): 415-558-6377 or pic@sfgov.org
Property Information Map (PIM): http://propertymap.sfplanning.org

---

From: Miller, Alisa
Sent: Friday, November 08, 2013 8:49 AM
To: Jones, Sarah
Cc: Pereira, Monica; Turrell, Nannie
Subject: Re-Referral: BOS File No. 130968-2

Attached is a re-referral for BOS File No. 130968-2 (Ellis Act Displaced Emergency Assistance Ordinance), which is substitute legislation introduced on November 5th. A Categorical Exemption stamp was already submitted for the previous version on October 10th. If you wish to submit an additional determination, please forward it to me.

Thank you.

Alisa Miller
Assistant Clerk
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
415.554.4447 direct
415.554.5163 fax

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: Youth Commission

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

DATE: October 30, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, which is being referred to the Youth Commission, per Charter Section 4.124, for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130968

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

****

RESPONSE FROM YOUTH COMMISSION **Date:** 11/4/2013

___ **No Comment**

___ **Recommendation Attached**

Chairperson, Youth Commission

Youth Commission
City Hall ~ Room 345
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4532

(415) 554-6446
(415) 554-6140 FAX
www.sfgov.org/youth_commission

YOUTH COMMISSION

MEMORANDUM

TO: Alisa Miller, Committee Clerk, Board of Supervisors

FROM: 2013-2014 San Francisco Youth Commission

DATE: Friday, November 7, 2013

RE: **Youth Commission referral response to [BOS file no. 130968] - Administrative, Planning Codes-Ellis Act Displaced Emergency Assistance Ordinance**

At the regular meeting of the San Francisco Youth Commission held on Monday, November 5th, 2013, the Youth Commission voted to unanimously support the following motion:

To support Board of Supervisors file no. 130968, a proposed ordinance which would amend the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing program administered or funded by the City, to certain tenants being evicted under the Ellis Act; and making environmental findings.

***

We would like to give you some brief context for the position expressed above. Our motion was very clear and concise regarding the proposed ordinance to provide preference for units under affordable housing programs funded by the City, that are facing eviction under the state's Ellis Act. We think the proposed Ellis Act Displaced Emergency Assistance ordinance is a great first step in addressing the housing crisis in San Francisco, and to consider the needs of low income tenants and families, especially with the rise of family flight.

Please inform us of forward movement on this item. If you have any questions, please feel free to contact the San Francisco Youth Commission at (415) 554-6446 or your Youth Commissioner.

Nicholas Persky

Chair, Nicholas Persky
2013-2014 San Francisco Youth Commission

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

November 20, 2013

File No. 131068-3

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On November 19, 2013, Supervisor Kim introduced the following **substitute** legislation:

File No. 131068-3

Resolution imposing interim zoning controls to require that for a 12-month period in the area bounded by Market Street from Van Ness Street east to 5th Street on the north side and east to 2nd Street on the south side, 2nd Street south to Brannan Street, Brannan Street west to Division Street, and South Van Ness Street north to Market Street: 1) certain building permits for commercial buildings shall require the posting of a notice and a 15-day delay in starting the work; and 2) the re-establishment of a commercial use that has been converted to residential use shall require Planning Commission approval through either an authorization under Planning Code, Section 320, et seq. or a conditional use authorization; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

A Categorical Exemption stamp was submitted for the previous version on November 1, 2013. If you wish to submit an additional determination for this revised legislation, please forward it to me.

Angela Calvillo, Clerk of the Board
Alisa Miller
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

Not a project per CEQA Guidelines Sections 15060 and 15378.
Nannie L Turrell
November 21, 2013

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Planning Code Text Change
HEARING DATE: NOVEMBER 21, 2013

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name:	**Ellis Act-Displaced Emergency Assistance Ordinance**
Case Number:	2013.1468T [Board File No. 13-0968]
Initiated by:	Supervisors Chiu, Campos, Kim, and Mar / Introduced October 1, 2013
Staff Contact:	Kimia Haddadan and Sophie Hayward, Legislative Affairs Kimia.haddadan@sfgov.org, Sophie.hayward@sfgov.org, 415-558-6372
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend Sections 24.8, 10.100-110, 10.100-370, and 43.3.4 of the Administrative Code and Planning Code Sections 413.10 (Citywide Affordable Housing Fund), 415.5 (Affordable Housing Fee), 415.6 (On-Site Affordable Housing Alternative), and 415.7 (Off-Site Affordable Housing Alternative), to define and establish a preference in all affordable housing programs administered or funded by the City, to certain tenants evicted under the Ellis Act as defined in California Government Code Section 101.1.

The Way It Is Now:

San Francisco's Affordable Housing programs are defined in both the Administrative Code and the Planning Code. In each Code, preference in occupying units or in receiving assistance is given to Residential Certificate of Preference (COP) holders who meet all of the qualifications for the unit, or for the assistance; in the case of HOPE SF funded projects, first preference is given to occupants of existing housing, and second preference to COP holders.[1]

Administrative Code

Section 24.8: Preference in all City Affordable Housing Programs for Certificate Preference Holders. This section of the Administrative Code defines the preference for COP holders in occupying units or receiving assistance in all City affordable housing units or programs.

Section 10.100-110 (Mayor's Housing Affordability Fund), Section 10.100-370 (San Francisco HOPE SF Fund), and Section 43.3.4 (Proposed Use of Bond Proceeds). These three sections of the Administrative Code establish the Mayor's Housing Affordability Fund, the HOPE SF Fund, and the formula for the use of bond proceeds related to affordable housing development and down payment

[1] A Certificate of Preference is a document originally issued by the San Francisco Redevelopment Agency to residents displaced by the Agency in the 1960s as a result of federally funded urban renewal programs. With the 2012 dissolution of the Redevelopment Agency, the Mayor's Office of Housing has taken over the administration and management of the COP program. Information is available online at: http://www.sfredevelopment.org/ftp/uploadedfiles/Programs/COP_FAQs-Revised_March_2009.pdf (November 4, 2013)

assistance, and require that projects funded by either fund or the bonds give preference in occupying units or receiving assistance to COP holders and/or to existing residents.

Planning Code

Article 4 of the Planning Code defines and outlines development impact fees and fee programs, including the Jobs-Housing Linkage Program (Section 413) and Housing Requirements for Development Projects (Section 415). As in the Administrative Code, preference in occupying units or in receiving assistance is given to COP holders.

Section 413.10. (Citywide Affordable Housing Fund), Section 415.5 (Affordable Housing Fee), Section 415.6 (On-Site Affordable Housing), and **Section 415.7 (Off-Site Affordable Housing).** Each of these funds, fees, and programs require that preference in occupying units or in receiving assistance be given to COP holders.

The Way It Would Be:

The **Administrative Code** would be amended to define the term "Displaced Tenant," to define the duration of the preference, to identify a timeline for implementation, and to add the new preference to each affordable housing program section. The **Planning Code** would be amended to add the preference to each defined affordable housing fund, fee, or alternative identified in Articles 413 and 415. Specific amendments are as follows:

Administrative Code

Section 24.8: Preference in all City Affordable Housing Programs for Certificate Preference Holders. This section would be amended to define "Displaced Tenant," to create a preference for occupying affordable housing for the new category, to develop a timeline for implementation, to add specific limits to the preference, and to add a one-time report as follows:

- **Definition.** "Displaced Tenant" is defined as any tenant residing in San Francisco who on or after January 1, 2012 has received a notice that the landlord plans to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, and who has:
  - Resided in the unit for a minimum of ten years; or,
  - Resided in the unit for a minimum of five years if the tenant is suffering life-threatening illness verified by the tenant's primary care physician.
- **Duration of Preference.** The Displaced Tenant preference may be applied for three years from the date of filing a notice of intent to withdraw the tenant's unit from the rental market for ***existing, currently occupied developments*** (emphasis added), or six years for ***new developments going through the initial occupancy period*** (emphasis added). In new and existing developments, the Displaced Tenant preference applies even if a unit has been offered through the preference and declined; however, the preference terminates when a unit is occupied.
- **Cap on Displaced Tenants Occupying Units in New Development.** The Displaced Tenant preference would apply to a maximum of 20% of units in the initial occupancy period in new developments.
- **Verification.** In order to confirm status as a Displaced Tenant, the following information would be submitted to and verified by MOHCD:
  - Proof that a notice of intent to withdraw the unit from the rental market has been filed with the Rent Board;
  - Proof that the tenant meets the five- or ten-year residency required, as applicable;

- Proof that the tenant is listed on the notice to withdrawal, on the lease for the unit in question, or other information that establishes residency in the unit for the duration required.

- **Timeline for Implementation.** The Mayor's Office of Housing and Community Development (MOHCD) would develop procedures for implementing the COP preference and the Displaced Tenant preference within 90 days of the effective date of the Ordinance.
- **Reporting.** The Board of Supervisors would hold a hearing to assess the impact of the Displaced Tenant preference within one year of the effective date of the Ordinance.

Section 10.100-110 (Mayor's Housing Affordability Fund), and Section 43.3.4 (Proposed Use of Bond Proceeds). These sections are each amended to add a preference, second to the existing COP preference, for Displaced Tenants to occupy units in projects receiving MOHCD funds for affordable housing or for down payment assistance, subject to the limits and cap described above.

Section 10.100-370 (San Francisco HOPE SF Fund). This section is amended to add a third preference, after the existing first preference to current occupants of a housing development receiving HOPE SF Funds and the existing second preference to COP holders, for Displaced Tenants to occupy units in projects receiving HOPE SF Funds, subject to the limits and the cap described above.

Planning Code

Section 413.10 (Citywide Affordable Housing Fund), Section 415.5 (Affordable Housing Fee), Section 415.6 (On-Site Affordable Housing), and **Section 415.7 (Off-Site Affordable Housing).** Each of these sections would be revised to add a second preference, after the existing preference of COP holders, to Displaced Tenants (as defined above) in occupying units or in receiving assistance from any of the funds, fees, or alternatives associated with affordable housing.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department recommends the following specific modifications to the draft Ordinance:

1. Reduce the eligibility for the preference in new developments to from six years to three years, which is consistent with the proposed eligibility period for existing units that are available for re-sale or re-rental;
2. For existing units that become available for re-sale or re-rental, cap the total number of units reserved for the new preference holders at 20% of the previous year's total number of available re-sale and re-rental units. This cap would be adjusted annually;
3. Require that the preference system be reviewed before a committee of the Board three years after the effective date of the Ordinance, including a report by the Mayor's Office of Housing and the Rent Board on the demographics and income levels of beneficiaries of the new preference

system. Based on this review and report, the Board would decide to extend, modify, or cancel this system.

BASIS FOR RECOMMENDATION

The Department is supportive of efforts to support tenants who have faced residential evictions, which have increased across categories in the last year. The three proposed modifications recommended by the Department are intended to balance the clear need for assistance and support for tenants displaced through the Ellis Act, with the ongoing needs of other vulnerable groups who participate in the affordable housing lottery system.

In order to better understand implications of the proposed legislation, staff has examined both the current eviction landscape in San Francisco and the existing lottery process for San Francisco's affordable housing programs.

Increase in Eviction Rates of All Types: No-Fault and For-Cause Evictions

The focus of the draft Ordinance is on ameliorating the displacement impacts caused by one form of no-fault eviction: the Ellis Act. However, it is important to note that displacement through eviction can and does occur through other processes, including other categories of **no-fault eviction**, such as owner move-ins, demolition, and condominium conversion, as well as so-called "**just-causes**," or tenant defaults, including breach of rental agreement, non-payment or habitual late payment of rent, and committing a nuisance.

The Annual Statistical Report 2012-2013 from the Rent Board states, "Total eviction notices filed with the Board increased by 36% from 1,421 to 1,934, while the number of tenant reports of alleged wrongful eviction decreased by 13% from 570 to 497. The number of units withdrawn from the rental market under the Ellis Act increased from 121 to 192 units."[2]

This Table highlights statistics from the Rent Board Fiscal Year 2012-2013[3]:

Eviction Type	Petitions by Building Owners	Units Impacted
Ellis Act	57	192
Development Agreements		232
Owner Move-Ins		234
Nuisance		350
Breach of Lease		510
Other Eviction Types		416
Total Eviction Notices		1934

[2] San Francisco Residential Rent Stabilization and Arbitration Board Annual Statistical Report 2012-2013. Available online at http://www.sfrb.org/modules/showdocument.aspx?documentid=2660 (November 12, 2013).

[3] Ibid.

As has been widely reported, the total number of evictions in San Francisco – both for-cause and no-fault – have increased not only in the last year, but also significantly since 2010. The recently released report "Analysis of Tenant Displacement in San Francisco," by the Budget and Legislative Analyst notes a 38.2% increase in all types of evictions while Ellis Act evictions increased by a dramatic 169.8%. This report further highlights that there are specific neighborhoods in which evictions have been especially prevalent: in the five years between 2009-2013, the Inner Mission and Russian Hill/Polk Gulch neighborhoods had among the highest numbers of Ellis Act evictions (117) and among the highest numbers of for-cause evictions (825).[4]

Inclusionary Housing Lotteries

The Mayor's Office of Housing and Community Development manages the San Francisco Inclusionary Housing Program, and uses a lottery system to allocate opportunities to apply for available units in rental or in ownership properties developed with or supported by funds from one of the city's affordable housing programs, including project-based inclusionary housing fees or alternatives. MOHCD conducts lotteries for available units in both newly developed properties in their initial occupancy phase, as well as units in existing buildings as units are vacated.

MOHCD's procedures require that tenants who were displaced in the 1960s by the San Francisco Redevelopment Agency ("Agency") when it implemented its federally funded urban renewal program receive first preference to apply for affordable housing units. This existing preference, called the Certificate of Preference Program, is tied to displacement by the Redevelopment Agency in the Western Addition and in Hunters Point, and applies to the head of households displaced by the Agency, eligible family members residing in the household at the time of displacement, and to households displaced by the Agency after 2008. The Certificate of Preference Program is scheduled to expire in 2016, unless the Board of Supervisors renews it with an Ordinance.[5]

As of November 5, 2013, MOHCD has conducted 7 lotteries in 2013, including three rental lotteries and four ownership lotteries, with 3,048 applicants, among which only 17 were COP holders, all for rental units.

Data related to the inclusionary housing lottery indicates that the impact of the proposed new preference program would be most significant on re-rental and resale units: only 29 resale ownership units and 10 re-rental units have become available in the last year (and 105 resale units and 50 re-rental units in the last five years) – the low available inventory combined with the increased Ellis Act evictions means that most, if not all, existing re-rental and re-sale units would go to the new Displaced Tenant preference holders. This would likely be the case whether the Ellis Act evictions numbers are relatively high, such as in 2001 when there are 318 Ellis evictions, or whether the numbers are relatively low, such as in 2010, when there were 43 Ellis evictions.

Basis for Recommendation #1: Create a Consistent Three-Year Period of Eligibility

As proposed, the draft Ordinance would create two separate eligibility periods for preference holders: one for new development in the initial occupancy stage, and a second, shorter period, applicable to units

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[4] Pages 14-25, "Memo to Supervisor Campos: Analysis of Tenant Displacement in San Francisco, "Budget and Legislative Analyst, October 30, 2013. Available online at: http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=47040 (November 5, 2013). Please note that the difference in reported percent increase in evictions between the Rent Board's Annual Report and the Budget Analyst's report is due to the difference in their respective reporting calendars.

[5] http://www.sf-moh.org/index.aspx?page=268 (November 13, 2013).

that exist and become available for re-sale and re-rental. New development represents the overwhelming majority of units available for the inclusionary program: in the past year, there have been 175 units made available through new development, as compared to 39 units that have become available for re-sale or re-rental. The Department believes that creating a separate eligibility period for a relatively small number of potentially available units would create unnecessary complexity for implementation. In addition, the Department views the program as an emergency response to a volatile housing situation that may change dramatically, again, over the course of three years. The Department recommends a three-year eligibility period for both existing units and for new units that come online through new development.

Basis for Recommendation #2: Cap the Re-sale and Re-rental Units Available to New Preference Holders

The current inclusionary program lotteries are popular: 3,048 applicants have participated in the last year. As drafted, the Ordinance limits the application of the preference to 20% of all units available through new construction. The Department recommends extending a similar limit to units made available for re-sale or re-rental, specifically to limit the preference to 20% of the previous year's total number of available existing units. In the last year, there have been re-rental opportunities for ten units and 29 units available for re-sale. Using the 20% preference limit methodology proposed by the Department, the first year's preference would be limited to 2 re-rental units and six units for re-sale. This cap would serve to preserve opportunities to occupy existing units for other vulnerable groups, while ensuring a preference for tenants evicted through the Ellis Act.

Basis for Recommendation #3: Review of the Preference Program by the Board in Three Years

The existing inclusionary housing allocation program functions as a nearly pure lottery system, given the very low impact of the existing COP program (as noted above, there have been only 17 COP applicants in the last five years, all of which were for rental units). The proposed legislation would transform the lottery system to a ranking system, giving preference to one particularly vulnerable group: long term tenants evicted from rent controlled buildings by the Ellis Act.

As proposed, the draft Ordinance is supported by several General Plan Policies and Objectives that aim to protect and increase access to housing, to provide a range of housing for residents who need support, and to reduce the risk of homelessness. However, it is important to note that there are also General Plan Objectives and Policies that specifically call for equal access among groups for subsidized housing and available units. The draft Ordinance conflicts with these policies, in that it creates a ranking system that gives preference to one vulnerable group (tenants evicted by the Ellis Act), over others (such as the elderly, rent-challenged, disabled, and victims of disasters such as earthquake or fire). General Plan Objectives and Policies that **support** the draft Ordinance include Objective 4, Policy 4.2 ("Provide a range of housing options for residents with special needs for housing support and services"), Objective 5, Policy 5.2 ("Increase access to housing, particularly for households who might not be aware of their housing choices"), and, to some extent, Objective 6, Policy 6.2 (Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants"). General Plan Objectives and Policies that appear to **conflict** with the draft Ordinance are Objective 5, Policy 5.1 ("Ensure all residents of San Francisco have equal access to subsidized housing"), and, to some extent, Objective 6, Policy 6.2 ("Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants").

This tension between General Plan Objectives and Policies is the basis of the Department's recommendation that the Board of Supervisors evaluate the preference program and its impacts in three years. The proposed modification is intended to allow for a timely response to the current eviction

climate without creating a permanent preference for one vulnerable class of tenants among others and to provide a means to rescind the program in three years if the crisis has subsided. Further, the provision would mirror the sunset provision of the existing COP program.

While the Rent Board does not typically report demographic data related to eviction filings, the Department recommends that MOHCD provide demographic information related to the preference program in its report to the Board of Supervisors.

ENVIRONMENTAL REVIEW

The proposal would result in no physical impact on the environment. The proposed amendments described in the draft Ordinance are exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines, as determined on October 10, 2013.

PUBLIC COMMENT

As of the date of this report, the Planning Department has no public comment on this item.

RECOMMENDATION:	**Recommendation of Approval with Modifications**

Attachments:

Exhibit A: Draft Planning Commission Resolution
Exhibit B: Board of Supervisors File No. 13-0968

SAN FRANCISCO
PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Draft Resolution

HEARING DATE NOVEMBER 21, 2013

Project Name:	**Ellis Act-Displaced Emergency Assistance Ordinance**
Case Number:	2013.1468T [Board File No. 13-0968]
Initiated by:	Supervisors Chiu, Campos, Kim, and Mar / Introduced October 1, 2013
Staff Contact:	Kimia Haddadan and Sophie Hayward, Legislative Affairs Kimia.haddadan@sfgov.org Sophie.hayward@sfgov.org, 415-558-6372
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 413.10, 415.5, 415.6, AND 415.7 TO DEFINE AND ESTABLISH A PREFERENCE IN ALL AFFORDABLE HOUSING PROGRAMS ADMINISTERED OR FUNDED BY THE CITY TO CERTAIN TENANTS EVICTED UNDER THE ELLIS ACT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on October 1, 2013, Supervisors Chiu, Campos, Kim, Mar, and Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0968, which would amend Sections 413.10, 415.5, 415.6, and 415.7 of the Planning Code to establish a preference in all affordable housing programs funded or administered by the City for certain tenants displaced under the Ellis Act;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 21, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance. Specifically, the Commission recommends the following modifications:

1. Reduce the eligibility for the preference in new developments to from six years to three years, which is consistent with the proposed eligibility period for existing units that are available for re-sale or re-rental;
2. For existing units that become available for re-sale or re-rental, cap the total number of units reserved for the new preference holders at 20% of the previous year's total number of available re-sale and re-rental units. This cap would be adjusted annually;
3. Require that the preference system be reviewed before a committee of the Board three years after the effective date of the Ordinance, including a report by the Mayor's Office of Housing and the Rent Board on the demographics and income levels of beneficiaries of the new preference system. Based on this review and report, the Board would decide to extend, modify, or cancel this system.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. All types of evictions increased from 1,242 in Rent Board Year 2010 to 1,716 in Rent Board Year 2013, an increase of 38.2 percent. Ellis Act evictions, however, increased by 169.8 percent from 43 in Rent Board Year 2010 to 116 in Rent Board year 2013.
2. The existing inclusionary housing program runs on a lottery system but also provide a Certificate of Preference which is tied to displacement by the Redevelopment Agency in the Western Addition and in Hunters Point, and applies to the head of households displaced by the Agency, eligible family members residing in the household at the time of displacement, and to households displaced by the Agency after 2008.
3. As of November 5, 2013, MOHCD has conducted 7 lotteries in 2013, including three rental lotteries and four ownership lotteries, with 3,048 applicants, among which only 17 were COP holders, all for rental units. Therefore, The existing inclusionary housing allocation program functions as a nearly pure lottery system
4. Conditions that have caused the surge in evictions in the last year can change again in the very near future. Proposed solutions to such emergency issue should allow for a timely response to the current eviction climate without creating a permanent preference for one vulnerable class of residents among others.

5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are, *on balance,* consistent with the Objectives and Policies of the General Plan (Staff discussion is added in *italic font* below):

   HOUSING ELEMENT

OBJECTIVE 4
Foster a housing stock that meets the needs of all residents across lifecycles.

POLICY 4.2
Provide a range of housing options for residents with special needs for housing support and services.

The proposed legislation would offer an affordable housing option long-term residents evicted from rent controlled housing. The current housing market and surge in evictions put such residents at special need for housing assistance.

OBJECTIVE 5
Ensure that all residents have equal access to available units.
The proposed legislation would preference one group of residents to address a recent increase in Ellis Act evictions. There are additional groups who are vulnerable and will not have the first preference for available affordable housing units. As drafted, the legislation would cap the percentage of newly available affordable housing units allocated to the new preference group. With the proposed modifications, that 20% cap on the allocation of units to the preference group would be extended to apply to units available for re-sale and re-rental in addition to newly developed units. Further, the proposed modifications would ensure that the preference program be evaluated in three years to determine whether the eviction climate has changed and the program remains necessary.

POLICY 5.1
Ensure all residents of San Francisco have equal access to subsidized housing units.
The proposed legislation would preference one group of residents to address a recent increase in Ellis Act evictions. As noted above, there groups in addition to those evicted by the Ellis Act who are vulnerable and are eligible for affordable housing. The proposed modifications would ensure that the preference program be evaluated in three years to determine whether the eviction climate has changed and the program remains necessary.
POLICY 5.2
Increase access to housing, particularly for households who might not be aware of their housing choices.

Residents losing their rent-controlled housing due to Ellis Act have a narrow range of options affordable to their income in the existing market. The proposed legislation would provide priority to these residents for affordable housing to help them in an emergency crisis.

OBJECTIVE 6
Reduce homelessness and the risk of homelessness.

POLICY 6.2
Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants.

As long time residents of rent-controlled units, residents recently evicted due to Ellis Act will be at risk of homelessness. The proposed legislation will help keep these residents from facing homelessness due to a

sudden increase in housing costs which they would not afford. However, without demographic information, it is difficult to determine whether those evicted with the Ellis Act are those "most in need," or most likely to become homeless. The draft Ordinance does not specifically address families and immigrants, but focuses instead on the type of eviction invoked to displace the tenants.

8. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

   1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

      The proposed amendments will not have a negative impact on neighborhood serving retail uses and will not impact opportunities for resident employment in and ownership of neighborhood-serving retail.

   2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

      The amendments will not impact existing housing and neighborhood character.

   3. That the City's supply of affordable housing be preserved and enhanced;

      The proposed amendments will not affect the supply of affordable housing.

   4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

      The proposed amendments will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

   5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

      The proposed amendments would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

   6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;
      The proposed ordinance would not negatively impact preparedness in the case of an earthquake.

   7. That the landmarks and historic buildings be preserved;

      Landmarks and historic buildings would not be negatively impacted by the proposed amendments.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

   The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.

8. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with modifications as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 21, 2013.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED:

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: Youth Commission

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

DATE: October 30, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, which is being referred to the Youth Commission, per Charter Section 4.124, for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130968

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

****

RESPONSE FROM YOUTH COMMISSION **Date:** 11/4/2013

___/ **No Comment**

___V___ **Recommendation Attached**

Chairperson, Youth Commission

Youth Commission
City Hall ~ Room 345
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4532

(415) 554-6446
(415) 554-6140 FAX
www.sfgov.org/youth_commission

YOUTH COMMISSION

MEMORANDUM

TO: Alisa Miller, Committee Clerk, Board of Supervisors

FROM: 2013-2014 San Francisco Youth Commission

DATE: Friday, November 7, 2013

RE: **Youth Commission referral response to [BOS file no. 130968] - Administrative, Planning Codes-Ellis Act Displaced Emergency Assistance Ordinance**

At the regular meeting of the San Francisco Youth Commission held on Monday, November 5th, 2013, the Youth Commission voted to unanimously support the following motion:

To support Board of Supervisors file no. 130968, a proposed ordinance which would amend the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing program administered or funded by the City, to certain tenants being evicted under the Ellis Act; and making environmental findings.

***

We would like to give you some brief context for the position expressed above. Our motion was very clear and concise regarding the proposed ordinance to provide preference for units under affordable housing programs funded by the City, that are facing eviction under the state's Ellis Act. We think the proposed Ellis Act Displaced Emergency Assistance ordinance is a great first step in addressing the housing crisis in San Francisco, and to consider the needs of low income tenants and families, especially with the rise of family flight.

Please inform us of forward movement on this item. If you have any questions, please feel free to contact the San Francisco Youth Commission at (415) 554-6446 or your Youth Commissioner.

Nicholas Persky

Chair, Nicholas Persky
2013-2014 San Francisco Youth Commission

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

November 7, 2013

File No. 130968-2

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On November 5, 2013, Supervisor Chiu introduced the following **substitute** legislation:

File No. 130968-2

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

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

November 7, 2013

Planning Commission and
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On November 5, 2013, Supervisor Chiu introduced the following **substitute** legislation:

File No. 130968-2

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board
Alisa Miller
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

BOARD of SUPERVISORS

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MEMORANDUM

TO: Youth Commission

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

DATE: November 7, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following **substitute** legislation, which is being referred to the Youth Commission, per Charter Section 4.124, for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130968-2

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

****

RESPONSE FROM YOUTH COMMISSION **Date:** _____

____ **No Comment**

____ **Recommendation Attached**

_____
Chairperson, Youth Commission

BOARD of SUPERVISORS

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

MEMORANDUM

TO: Delene Wolf, Executive Director, Rent Board
Olson Lee, Director, Mayor's Office of Housing
Tom Hui, Director, Building Inspection Department

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

DATE: November 7, 2013

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following **substitute** legislation, introduced by Supervisor Chiu on November 5, 2013:

File No. 130968-2

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1.

If you have any additional 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: Eugene Flannery, Secretary, Mayor's Office of Housing
William Strawn, Director, Building Inspection Department
Carolyn Jayin, Director, Building Inspection Department

BOARD of SUPERVISORS

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MEMORANDUM

TO: Youth Commission

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

DATE: October 30, 2013

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Land Use & Economic Development Committee

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, which is being referred to the Youth Commission, per Charter Section 4.124, for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 130968

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

****

RESPONSE FROM YOUTH COMMISSION **Date:** _____

____ **No Comment**

____ **Recommendation Attached**

_____
Chairperson, Youth Commission

BOARD of SUPERVISORS

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

October 9, 2013

File No. 130968

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On October 1, 2013, Supervisor Chiu introduced the following proposed legislation:

File No. 130968

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

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

October 9, 2013

Planning Commission and
Attn: Jonas Ionin
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On October 1, 2013, Supervisor Chiu introduced the following proposed legislation:

File No. 130968

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board
By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

c: John Rahaim, Director of Planning
Scott Sanchez, Zoning Administrator
Sarah Jones, Chief, Major Environmental Analysis
AnMarie Rodgers, Legislative Affairs
Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

BOARD of SUPERVISORS

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MEMORANDUM

TO: Delene Wolf, Executive Director, Rent Board
Olson Lee, Director, Mayor's Office of Housing
Tom Hui, Director, Building Inspection Department

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

DATE: October 9, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Chiu on October 1, 2013:

File No. 130968

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code, Section 7060 et seq.; and making environmental findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

If you have any additional 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: Eugene Flannery, Secretary, Mayor's Office of Housing
William Strawn, Director, Building Inspection Department
Carolyn Jayin, Director, Building Inspection Department

TO: Supervisor Chiu

66 FROM: Evan Gross
Deputy City Attorney

DATE: November 5, 2013

OUR FILE NUMBER: 1400072

TYPE OF LEGISLATION: Ordinance

Attached please find the original and two copies of the following substitute legislation and legislative digest:

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code Section 7060 et seq.; and, making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1

The attached is substitute legislation for the ordinance introduced to the Board or Supervisors on October 9, 2013.

We have also forwarded you an electronic version of the legislation and digest for submission to the Clerk of the Board upon introduction of this legislation. Please let me know if you have any questions or would like any additional information.

cc: Jon Givner
Paul Zarefsky
Melissa Millsaps
Allie Fisher

TO: Supervisor Chiu

FROM: Evan Gross
Deputy City Attorney

DATE: October 1, 2013

OUR FILE NUMBER: 1400072

TYPE OF LEGISLATION: Ordinance

Attached please find the original and two copies of the following legislation and legislative digest:

Ordinance amending the Administrative and Planning Codes to provide a preference in occupying units or receiving assistance under all affordable housing programs administered or funded by the City, including all former San Francisco Redevelopment Agency affordable housing programs administered or funded by the City, to certain tenants being evicted under the Ellis Act, California Government Code Section 7060 et seq.; and, making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1

We have also forwarded you an electronic version of the legislation and digest for submission to the Clerk of the Board upon introduction of this legislation. Please let me know if you have any questions or would like any additional information.

cc: Jon Givner
Paul Zarefsky
Melissa Millsaps
Allie Fisher

SAN FRANCISCO
PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

November 22, 2013

Ms. Angela Calvillo, Clerk
Honorable Supervisor Avalos
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2013.1468T:**
Ellis Act Displaced Emergency Assistance Ordinance
Board File No. 13-0968
Planning Commission Recommendation: ***Approval with a modification***

Dear Ms. Calvillo and Supervisor Chiu,

On November 21, 2013, the Planning Commission conducted a duly noticed public hearing at its regularly scheduled meeting to consider the proposed amendments to the Administrative Code and to Article 4 of the Planning Code introduced by Supervisor David Chiu and co-sponsored by Supervisors Breed, Campos, Kim, and Mar. At the hearing, the Planning Commission voted 6-0 to recommend approval of the draft Ordinance with one modification.

The proposed amendments have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2). Pursuant to San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents", the Department is sending electronic documents and one hard copy. Additional hard copies may be requested by contacting Sophie Hayward at (415) 558-6372.

Please find attached documents relating to the action of the Planning Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Sophie Hayward for AnMarie Rodgers

AnMarie Rodgers
Manager of Legislative Affairs

cc:
Supervisors Chiu, Breed, Campos, Kim, and Mar

Jon Givner, Deputy City Attorney
Evan Gross, Deputy City Attorney
Jason Elliot, Mayor's Director of Legislative & Government Affairs

Attachments (two hard copies of the following):
Planning Commission Resolution
Planning Department Executive Summary

SAN FRANCISCO
PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution No. 19029

HEARING DATE NOVEMBER 21, 2013

Project Name:	**Ellis Act-Displaced Emergency Assistance Ordinance**
Case Number:	2013.1468T [Board File No. 13-0968]
Initiated by:	Supervisors Chiu, Campos, Kim, and Mar / Introduced October 1, 2013
Staff Contact:	Kimia Haddadan and Sophie Hayward, Legislative Affairs Kimia.haddadan@sfgov.org Sophie.hayward@sfgov.org, 415-558-6372
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTIONS 413.10, 415.5, 415.6, AND 415.7 TO DEFINE AND ESTABLISH A PREFERENCE IN ALL AFFORDABLE HOUSING PROGRAMS ADMINISTERED OR FUNDED BY THE CITY TO CERTAIN TENANTS EVICTED UNDER THE ELLIS ACT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on October 1, 2013, Supervisors Chiu, Campos, Kim, Mar, and Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 13-0968, which would amend Sections 413.10, 415.5, 415.6, and 415.7 of the Planning Code to establish a preference in all affordable housing programs funded or administered by the City for certain tenants displaced under the Ellis Act;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 21, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with a modification** the proposed ordinance. Specifically, the Commission recommends the following modification:

1. Require that the preference system be reviewed before a committee of the Board three years after the effective date of the Ordinance, including a report by the Mayor's Office of Housing and the Rent Board on the demographics and income levels of beneficiaries of the new preference system. Based on this review and report, the Board could decide to extend, modify, or cancel this system.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. All types of evictions increased from 1,242 in Rent Board Year 2010 to 1,716 in Rent Board Year 2013, an increase of 38.2 percent. Ellis Act evictions, however, increased by 169.8 percent from 43 in Rent Board Year 2010 to 116 in Rent Board year 2013.
2. The existing inclusionary housing program runs on a lottery system but also provide a Certificate of Preference which is tied to displacement by the Redevelopment Agency in the Western Addition and in Hunters Point, and applies to the head of households displaced by the Agency, eligible family members residing in the household at the time of displacement, and to households displaced by the Agency after 2008.
3. As of November 5, 2013, MOHCD has conducted 7 lotteries in 2013, including three rental lotteries and four ownership lotteries, with 3,048 applicants, among which only 17 were COP holders, all for rental units. Therefore, The existing inclusionary housing allocation program functions as a nearly pure lottery system
4. Conditions that have caused the surge in evictions in the last year can change again in the very near future. Proposed solutions to such emergency issue should allow for a timely response to the current eviction climate without creating a permanent preference for one vulnerable class of residents among others.
5. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are, *on balance,* consistent with the Objectives and Policies of the General Plan (Staff discussion is added in *italic font* below):

HOUSING ELEMENT

OBJECTIVE 4
Foster a housing stock that meets the needs of all residents across lifecycles.

POLICY 4.2
Provide a range of housing options for residents with special needs for housing support and services.

The proposed legislation would offer an affordable housing option long-term residents evicted from rent controlled housing. The current housing market and surge in evictions put such residents at special need for housing assistance.

OBJECTIVE 5
Ensure that all residents have equal access to available units.
The proposed legislation would preference one group of residents to address a recent increase in Ellis Act evictions. There are additional groups who are vulnerable and will not have the first preference for available affordable housing units. As drafted, the legislation would cap the percentage of newly available affordable housing units allocated to the new preference group. With the proposed modifications, that 20% cap on the allocation of units to the preference group would be extended to apply to units available for re-sale and re-rental in addition to newly developed units. Further, the proposed modifications would ensure that the preference program be evaluated in three years to determine whether the eviction climate has changed and the program remains necessary.

POLICY 5.1
Ensure all residents of San Francisco have equal access to subsidized housing units.
The proposed legislation would preference one group of residents to address a recent increase in Ellis Act evictions. As noted above, there groups in addition to those evicted by the Ellis Act who are vulnerable and are eligible for affordable housing. The proposed modifications would ensure that the preference program be evaluated in three years to determine whether the eviction climate has changed and the program remains necessary.
POLICY 5.2
Increase access to housing, particularly for households who might not be aware of their housing choices.

Residents losing their rent-controlled housing due to Ellis Act have a narrow range of options affordable to their income in the existing market. The proposed legislation would provide priority to these residents for affordable housing to help them in an emergency crisis.

OBJECTIVE 6
Reduce homelessness and the risk of homelessness.

POLICY 6.2
Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants.

As long time residents of rent-controlled units, residents recently evicted due to Ellis Act will be at risk of homelessness. The proposed legislation will help keep these residents from facing homelessness due to a sudden increase in housing costs which they would not afford. However, without demographic information, it is difficult to determine whether those evicted with the Ellis Act are those "most in need," or most likely to become homeless. The draft Ordinance does not specifically address families and immigrants, but focuses instead on the type of eviction invoked to displace the tenants.

8. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

   The proposed amendments will not have a negative impact on neighborhood serving retail uses and will not impact opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

   The amendments will not impact existing housing and neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

   The proposed amendments will not affect the supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

   The proposed amendments will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

   The proposed amendments would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;
   The proposed ordinance would not negatively impact preparedness in the case of an earthquake.

7. That the landmarks and historic buildings be preserved;

   Landmarks and historic buildings would not be negatively impacted by the proposed amendments.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

   The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments.

8. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance with the modification as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 21, 2013.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, and Wu

NOES: None

ABSENT: Commissioner Sugaya

ADOPTED: November 21, 2013

SAN FRANCISCO
PLANNING DEPARTMENT

Executive Summary
Planning Code Text Change
HEARING DATE: NOVEMBER 21, 2013

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

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Fax:
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Project Name:	**Ellis Act-Displaced Emergency Assistance Ordinance**
Case Number:	2013.1468T [Board File No. 13-0968]
Initiated by:	Supervisors Chiu, Campos, Kim, and Mar / Introduced October 1, 2013
Staff Contact:	Kimia Haddadan and Sophie Hayward, Legislative Affairs Kimia.haddadan@sfgov.org, Sophie.hayward@sfgov.org, 415-558-6372
Reviewed by:	AnMarie Rodgers, Manager Legislative Affairs anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation:	**Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would amend Sections 24.8, 10.100-110, 10.100-370, and 43.3.4 of the Administrative Code and Planning Code Sections 413.10 (Citywide Affordable Housing Fund), 415.5 (Affordable Housing Fee), 415.6 (On-Site Affordable Housing Alternative), and 415.7 (Off-Site Affordable Housing Alternative), to define and establish a preference in all affordable housing programs administered or funded by the City, to certain tenants evicted under the Ellis Act as defined in California Government Code Section 101.1.

The Way It Is Now:

San Francisco's Affordable Housing programs are defined in both the Administrative Code and the Planning Code. In each Code, preference in occupying units or in receiving assistance is given to Residential Certificate of Preference (COP) holders who meet all of the qualifications for the unit, or for the assistance; in the case of HOPE SF funded projects, first preference is given to occupants of existing housing, and second preference to COP holders.[1]

Administrative Code

Section 24.8: Preference in all City Affordable Housing Programs for Certificate Preference Holders. This section of the Administrative Code defines the preference for COP holders in occupying units or receiving assistance in all City affordable housing units or programs.

Section 10.100-110 (Mayor's Housing Affordability Fund), Section 10.100-370 (San Francisco HOPE SF Fund), and Section 43.3.4 (Proposed Use of Bond Proceeds). These three sections of the Administrative Code establish the Mayor's Housing Affordability Fund, the HOPE SF Fund, and the formula for the use of bond proceeds related to affordable housing development and down payment

[1]A Certificate of Preference is a document originally issued by the San Francisco Redevelopment Agency to residents displaced by the Agency in the 1960s as a result of federally funded urban renewal programs. With the 2012 dissolution of the Redevelopment Agency, the Mayor's Office of Housing has taken over the administration and management of the COP program. Information is available online at: http://www.sfredevelopment.org/ftp/uploadedfiles/Programs/COP_FAQs-Revised_March_2009.pdf (November 4, 2013)

assistance, and require that projects funded by either fund or the bonds give preference in occupying units or receiving assistance to COP holders and/or to existing residents.

Planning Code

Article 4 of the Planning Code defines and outlines development impact fees and fee programs, including the Jobs-Housing Linkage Program (Section 413) and Housing Requirements for Development Projects (Section 415). As in the Administrative Code, preference in occupying units or in receiving assistance is given to COP holders.

Section 413.10. (Citywide Affordable Housing Fund), Section 415.5 (Affordable Housing Fee), Section 415.6 (On-Site Affordable Housing), and **Section 415.7 (Off-Site Affordable Housing).** Each of these funds, fees, and programs require that preference in occupying units or in receiving assistance be given to COP holders.

The Way It Would Be:

The **Administrative Code** would be amended to define the term "Displaced Tenant," to define the duration of the preference, to identify a timeline for implementation, and to add the new preference to each affordable housing program section. The **Planning Code** would be amended to add the preference to each defined affordable housing fund, fee, or alternative identified in Articles 413 and 415. Specific amendments are as follows:

Administrative Code

Section 24.8: Preference in all City Affordable Housing Programs for Certificate Preference Holders. This section would be amended to define "Displaced Tenant," to create a preference for occupying affordable housing for the new category, to develop a timeline for implementation, to add specific limits to the preference, and to add a one-time report as follows:

- **Definition.** "Displaced Tenant" is defined as any tenant residing in San Francisco who on or after January 1, 2012 has received a notice that the landlord plans to withdraw the tenant's unit from the rental market pursuant to the Ellis Act, and who has:
  - Resided in the unit for a minimum of ten years; or,
  - Resided in the unit for a minimum of five years if the tenant is suffering life-threatening illness verified by the tenant's primary care physician.
- **Duration of Preference.** The Displaced Tenant preference may be applied for three years from the date of filing a notice of intent to withdraw the tenant's unit from the rental market for ***existing, currently occupied developments*** (emphasis added), or six years for ***new developments going through the initial occupancy period*** (emphasis added). In new and existing developments, the Displaced Tenant preference applies even if a unit has been offered through the preference and declined; however, the preference terminates when a unit is occupied.
- **Cap on Displaced Tenants Occupying Units in New Development.** The Displaced Tenant preference would apply to a maximum of 20% of units in the initial occupancy period in new developments.
- **Verification.** In order to confirm status as a Displaced Tenant, the following information would be submitted to and verified by MOHCD:
  - Proof that a notice of intent to withdraw the unit from the rental market has been filed with the Rent Board;
  - Proof that the tenant meets the five- or ten-year residency required, as applicable;

  - Proof that the tenant is listed on the notice to withdrawal, on the lease for the unit in question, or other information that establishes residency in the unit for the duration required.
- **Timeline for Implementation.** The Mayor's Office of Housing and Community Development (MOHCD) would develop procedures for implementing the COP preference and the Displaced Tenant preference within 90 days of the effective date of the Ordinance.
- **Reporting.** The Board of Supervisors would hold a hearing to assess the impact of the Displaced Tenant preference within one year of the effective date of the Ordinance.

Section 10.100-110 (Mayor's Housing Affordability Fund), and Section 43.3.4 (Proposed Use of Bond Proceeds). These sections are each amended to add a preference, second to the existing COP preference, for Displaced Tenants to occupy units in projects receiving MOHCD funds for affordable housing or for down payment assistance, subject to the limits and cap described above.

Section 10.100-370 (San Francisco HOPE SF Fund). This section is amended to add a third preference, after the existing first preference to current occupants of a housing development receiving HOPE SF Funds and the existing second preference to COP holders, for Displaced Tenants to occupy units in projects receiving HOPE SF Funds, subject to the limits and the cap described above.

Planning Code

Section 413.10 (Citywide Affordable Housing Fund), Section 415.5 (Affordable Housing Fee), Section 415.6 (On-Site Affordable Housing), and **Section 415.7 (Off-Site Affordable Housing).** Each of these sections would be revised to add a second preference, after the existing preference of COP holders, to Displaced Tenants (as defined above) in occupying units or in receiving assistance from any of the funds, fees, or alternatives associated with affordable housing.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend ***approval with modifications*** of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department recommends the following specific modifications to the draft Ordinance:

1. Reduce the eligibility for the preference in new developments to from six years to three years, which is consistent with the proposed eligibility period for existing units that are available for re-sale or re-rental;
2. For existing units that become available for re-sale or re-rental, cap the total number of units reserved for the new preference holders at 20% of the previous year's total number of available re-sale and re-rental units. This cap would be adjusted annually;
3. Require that the preference system be reviewed before a committee of the Board three years after the effective date of the Ordinance, including a report by the Mayor's Office of Housing and the Rent Board on the demographics and income levels of beneficiaries of the new preference

system. Based on this review and report, the Board would decide to extend, modify, or cancel this system.

BASIS FOR RECOMMENDATION

The Department is supportive of efforts to support tenants who have faced residential evictions, which have increased across categories in the last year. The three proposed modifications recommended by the Department are intended to balance the clear need for assistance and support for tenants displaced through the Ellis Act, with the ongoing needs of other vulnerable groups who participate in the affordable housing lottery system.

In order to better understand implications of the proposed legislation, staff has examined both the current eviction landscape in San Francisco and the existing lottery process for San Francisco's affordable housing programs.

Increase in Eviction Rates of All Types: No-Fault and For-Cause Evictions

The focus of the draft Ordinance is on ameliorating the displacement impacts caused by one form of no-fault eviction: the Ellis Act. However, it is important to note that displacement through eviction can and does occur through other processes, including other categories of **no-fault eviction**, such as owner move-ins, demolition, and condominium conversion, as well as so-called "**just-causes**," or tenant defaults, including breach of rental agreement, non-payment or habitual late payment of rent, and committing a nuisance.

The Annual Statistical Report 2012-2013 from the Rent Board states, "Total eviction notices filed with the Board increased by 36% from 1,421 to 1,934, while the number of tenant reports of alleged wrongful eviction decreased by 13% from 570 to 497. The number of units withdrawn from the rental market under the Ellis Act increased from 121 to 192 units."[2]

This Table highlights statistics from the Rent Board Fiscal Year 2012-2013[3]:

Eviction Type	Petitions by Building Owners	Units Impacted
Ellis Act	57	192
Development Agreements		232
Owner Move-Ins		234
Nuisance		350
Breach of Lease		510
Other Eviction Types		416
Total Eviction Notices		1934

[2] San Francisco Residential Rent Stabilization and Arbitration Board Annual Statistical Report 2012-2013. Available online at http://www.sfrb.org/modules/showdocument.aspx?documentid=2660 (November 12, 2013).

[3] Ibid.

As has been widely reported, the total number of evictions in San Francisco – both for-cause and no-fault – have increased not only in the last year, but also significantly since 2010. The recently released report "Analysis of Tenant Displacement in San Francisco," by the Budget and Legislative Analyst notes a 38.2% increase in all types of evictions while Ellis Act evictions increased by a dramatic 169.8%. This report further highlights that there are specific neighborhoods in which evictions have been especially prevalent: in the five years between 2009-2013, the Inner Mission and Russian Hill/Polk Gulch neighborhoods had among the highest numbers of Ellis Act evictions (117) and among the highest numbers of for-cause evictions (825).[4]

Inclusionary Housing Lotteries

The Mayor's Office of Housing and Community Development manages the San Francisco Inclusionary Housing Program, and uses a lottery system to allocate opportunities to apply for available units in rental or in ownership properties developed with or supported by funds from one of the city's affordable housing programs, including project-based inclusionary housing fees or alternatives. MOHCD conducts lotteries for available units in both newly developed properties in their initial occupancy phase, as well as units in existing buildings as units are vacated.

MOHCD's procedures require that tenants who were displaced in the 1960s by the San Francisco Redevelopment Agency ("Agency") when it implemented its federally funded urban renewal program receive first preference to apply for affordable housing units. This existing preference, called the Certificate of Preference Program, is tied to displacement by the Redevelopment Agency in the Western Addition and in Hunters Point, and applies to the head of households displaced by the Agency, eligible family members residing in the household at the time of displacement, and to households displaced by the Agency after 2008. The Certificate of Preference Program is scheduled to expire in 2016, unless the Board of Supervisors renews it with an Ordinance.[5]

As of November 5, 2013, MOHCD has conducted 7 lotteries in 2013, including three rental lotteries and four ownership lotteries, with 3,048 applicants, among which only 17 were COP holders, all for rental units.

Data related to the inclusionary housing lottery indicates that the impact of the proposed new preference program would be most significant on re-rental and resale units: only 29 resale ownership units and 10 re-rental units have become available in the last year (and 105 resale units and 50 re-rental units in the last five years) – the low available inventory combined with the increased Ellis Act evictions means that most, if not all, existing re-rental and re-sale units would go to the new Displaced Tenant preference holders. This would likely be the case whether the Ellis Act evictions numbers are relatively high, such as in 2001 when there are 318 Ellis evictions, or whether the numbers are relatively low, such as in 2010, when there were 43 Ellis evictions.

Basis for Recommendation #1: Create a Consistent Three-Year Period of Eligibility

As proposed, the draft Ordinance would create two separate eligibility periods for preference holders: one for new development in the initial occupancy stage, and a second, shorter period, applicable to units

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[4] Pages 14-25, "Memo to Supervisor Campos: Analysis of Tenant Displacement in San Francisco, "Budget and Legislative Analyst, October 30, 2013. Available online at: http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=47040 (November 5, 2013). Please note that the difference in reported percent increase in evictions between the Rent Board's Annual Report and the Budget Analyst's report is due to the difference in their respective reporting calendars.

[5] http://www.sf-moh.org/index.aspx?page=268 (November 13, 2013).

that exist and become available for re-sale and re-rental. New development represents the overwhelming majority of units available for the inclusionary program: in the past year, there have been 175 units made available through new development, as compared to 39 units that have become available for re-sale or re-rental. The Department believes that creating a separate eligibility period for a relatively small number of potentially available units would create unnecessary complexity for implementation. In addition, the Department views the program as an emergency response to a volatile housing situation that may change dramatically, again, over the course of three years. The Department recommends a three-year eligibility period for both existing units and for new units that come online through new development.

Basis for Recommendation #2: Cap the Re-sale and Re-rental Units Available to New Preference Holders

The current inclusionary program lotteries are popular: 3,048 applicants have participated in the last year. As drafted, the Ordinance limits the application of the preference to 20% of all units available through new construction. The Department recommends extending a similar limit to units made available for re-sale or re-rental, specifically to limit the preference to 20% of the previous year's total number of available existing units. In the last year, there have been re-rental opportunities for ten units and 29 units available for re-sale. Using the 20% preference limit methodology proposed by the Department, the first year's preference would be limited to 2 re-rental units and six units for re-sale. This cap would serve to preserve opportunities to occupy existing units for other vulnerable groups, while ensuring a preference for tenants evicted through the Ellis Act.

Basis for Recommendation #3: Review of the Preference Program by the Board in Three Years

The existing inclusionary housing allocation program functions as a nearly pure lottery system, given the very low impact of the existing COP program (as noted above, there have been only 17 COP applicants in the last five years, all of which were for rental units). The proposed legislation would transform the lottery system to a ranking system, giving preference to one particularly vulnerable group: long term tenants evicted from rent controlled buildings by the Ellis Act.

As proposed, the draft Ordinance is supported by several General Plan Policies and Objectives that aim to protect and increase access to housing, to provide a range of housing for residents who need support, and to reduce the risk of homelessness. However, it is important to note that there are also General Plan Objectives and Policies that specifically call for equal access among groups for subsidized housing and available units. The draft Ordinance conflicts with these policies, in that it creates a ranking system that gives preference to one vulnerable group (tenants evicted by the Ellis Act), over others (such as the elderly, rent-challenged, disabled, and victims of disasters such as earthquake or fire). General Plan Objectives and Policies that **support** the draft Ordinance include Objective 4, Policy 4.2 ("Provide a range of housing options for residents with special needs for housing support and services"), Objective 5, Policy 5.2 ("Increase access to housing, particularly for households who might not be aware of their housing choices"), and, to some extent, Objective 6, Policy 6.2 (Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants"). General Plan Objectives and Policies that appear to **conflict** with the draft Ordinance are Objective 5, Policy 5.1 ("Ensure all residents of San Francisco have equal access to subsidized housing"), and, to some extent, Objective 6, Policy 6.2 ("Prioritize the highest incidences of homelessness, as well as those most in need, including families and immigrants").

This tension between General Plan Objectives and Policies is the basis of the Department's recommendation that the Board of Supervisors evaluate the preference program and its impacts in three years. The proposed modification is intended to allow for a timely response to the current eviction

climate without creating a permanent preference for one vulnerable class of tenants among others and to provide a means to rescind the program in three years if the crisis has subsided. Further, the provision would mirror the sunset provision of the existing COP program.

While the Rent Board does not typically report demographic data related to eviction filings, the Department recommends that MOHCD provide demographic information related to the preference program in its report to the Board of Supervisors.

ENVIRONMENTAL REVIEW

The proposal would result in no physical impact on the environment. The proposed amendments described in the draft Ordinance are exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines, as determined on October 10, 2013.

PUBLIC COMMENT

As of the date of this report, the Planning Department has no public comment on this item.

RECOMMENDATION:	**Recommendation of Approval with Modifications**

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. [130968]

☐ 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 Imperative

Sponsor(s):

Supervisors Chiu, Campos, Kim, Mar and Breed

Subject:

Ordinance providing preference in affordable housing for tenants facing eviction from the Ellis Act.

The text is listed below or attached:

See attached.

Signature of Sponsoring Supervisor: [signature]

For Clerk's Use Only:

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For Clerk's Use Only:

130968