

File No. 150117

Committee Item No. 4  
Board Item No. 10

**COMMITTEE/BOARD OF SUPERVISORS**  
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Committee: Land Use & Transportation

Date April 13, 2015

Board of Supervisors Meeting

Date April 28, 2015

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Completed by: Andrea Ausberry Date April 9, 2015

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

[Administrative Code - Relocation Payments to Evicted Tenants]

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Ordinance amending the Administrative Code to modify the calculation of the difference between the rent paid by an evicted tenant and market rent (rental payment differential) by having the Controller use data from RealFacts based on number of bedrooms, or another data source providing reliable market data; to cap relocation payments based on the rental payment differential at \$50,000 for each unit; to require the tenant to submit to the landlord a sworn statement of intent to use the relocation payment solely for housing or other relocation costs; to require the tenant to keep proof of expenditures on relocation costs for at least three years after vacating the unit, and to make copies available to the landlord within 10 business days of a request; and to require the tenant to reimburse the landlord any portion of the relocation payment not expended on relocation costs within three years after vacating the unit.

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

The Board of Supervisors hereby finds that:

(a) San Francisco's housing has become increasingly less affordable to tenants and to low-income, working, and middle-income people.

1 (1) San Francisco housing purchase prices increased by about 20% over the  
2 four years from 2011 to 2014;

3 (2) San Francisco housing rental prices increased by 25.2% over the three  
4 years from 2011 to 2013;

5 (3) The rental vacancy rate in San Francisco decreased from 6.4% in 2009 to  
6 2.8% in 2012;

7 (4) The median monthly rental rate citywide was \$3,414 as of June 2013 for all  
8 types of apartments; and

9 (5) Over 40% of households in San Francisco pay 30% or more of their  
10 household income on housing costs.

11 (b) Even as housing has become less affordable for tenants, evictions have increased,  
12 particularly Ellis Act evictions. Evictions have disproportionately affected some of San  
13 Francisco's most vulnerable residents and can have severe consequences.

14 (1) Ellis Act evictions increased 169% in San Francisco from 2010 to 2013;

15 (2) Seniors and people with disabilities face the highest eviction rates among all  
16 types of evictions in San Francisco;

17 (3) Tenants evicted under the Ellis Act from rent-controlled units lose their  
18 controlled rental rate and suffer disruptions in their daily lives, which are just a couple of the  
19 hardships of eviction;

20 (4) Some tenants evicted under the Ellis Act have difficulty remaining in San  
21 Francisco without rent control or other rental assistance; and

22 (5) One recent study showed that nearly a third of evicted tenants leave San  
23 Francisco and that more than 13% of evicted tenants in that study became homeless or used  
24 a post office box for their address following eviction.  
25

1 (c) Landlords who evict tenants under the Ellis Act impose adverse impacts on evicted  
2 tenants.

3 (1) When landlords use the Ellis Act to evict rent-controlled tenants, they  
4 impose on tenants many costs, including but not limited to the cost of moving and related  
5 expenses and the difference between the regulated rent the tenant had been paying and what  
6 is often a much higher market rent;

7 (2) Ellis Act evictions also have an adverse impact on housing affordability in  
8 San Francisco. When landlords leave the residential rental market, units of San Francisco's  
9 housing stock may be permanently removed from the rental market, such as when these units  
10 are sold for owner-occupancy as tenancies in common. This causes a decrease in the City's  
11 overall rental housing stock, and particularly its stock of pre-1979 rental units that are subject  
12 to rent control. Because state law generally prohibits imposing rent controls on newly  
13 constructed units of rental housing, these older rent-controlled units often cannot be replaced;  
14 and

15 (3) Landlords who use the Ellis Act to evict their tenants in order to sell their  
16 buildings often realize significant profits on their sales. A recent study by the Budget and  
17 Legislative Analyst of the Board of Supervisors determined that a sample of buildings that  
18 were sold following Ellis Act evictions sold for more than double their purchase prices on  
19 average.

20 (d) Under the Ellis Act, the City may mitigate any adverse impacts on persons by  
21 reason of their displacement.

22 (e) The Rent Stabilization and Arbitration Ordinance, Chapter 37 of the Administrative  
23 Code, provides relocation payments to evicted tenants to mitigate the impacts of evictions.

24 (f) Because of the significant increases in the cost of the San Francisco rental market,  
25 it is not only reasonable but imperative to mitigate the impacts of evictions by providing

1 payments to tenants who have been evicted that reflect their relocation costs and increased  
2 housing costs incurred due to eviction, based on reliable data about the San Francisco rental  
3 market.

4 For the aforesated reasons, the Board of Supervisors enacts these amendments to  
5 Section 37.9A of the Administrative Code to provide evicted tenants reasonable relocation  
6 assistance based on reliable market rate data for dwellings in San Francisco.

7  
8 Section 2. The Administrative Code is hereby amended by revising Section 37.9A to  
9 read as follows:

10 **SEC. 37.9A. TENANT RIGHTS IN CERTAIN DISPLACEMENTS UNDER SECTION**  
11 **37.9(a)(13).**

12 This Section 37.9A applies to certain tenant displacements under Section 37.9(a)(13),  
13 as specified.

14 (a) **Rent Allowed.**

15 (1) Except as provided in Section 37.9A(a)(2) below, any rental unit which a  
16 tenant vacates after receiving a notice to quit relying on Section 37.9(a)(13) (withdrawal of  
17 rental units from rent or lease under the Ellis Act, California Government Code Sections 7060  
18 et seq.), if again offered for rent or lease, must be offered and rented or leased at a rent not  
19 greater than the lawful rent in effect at the time the notice of intent to withdraw rental units is  
20 filed with the Board, plus annual rent increases available under this Chapter 37.

21  
22 (A) The provisions of Section 37.9A(a)(1) apply to all tenancies commenced  
23 during either of the following time periods:

1 (i) The five-year period after a notice of intent to withdraw the rental units is  
2 filed with the Board, whether or not the notice of intent is rescinded or the withdrawal of the  
3 units is completed pursuant to that notice;

4 (ii) The five-year period after the rental units are withdrawn.

5 \* \* \* \*

6  
7 **(e) Relocation Payments to Tenants.**

8 **(1) Before August 10, 2004, Low Income, Elderly or Disabled.** Where a  
9 landlord seeks eviction based upon Section 37.9(a)(13), and the notice of intent to withdraw  
10 rental units was filed with the Board before August 10, 2004, the relocation payments  
11 described in this Subsection 37.9A(e)(1) shall be limited to tenants who are members of lower  
12 income households, who are elderly, or who are disabled, as defined below.

13 (A) Tenants who are members of lower income households, as defined by  
14 Section 50079.5 of the California Health and Safety Code, and who receive a notice to quit  
15 based upon Section 37.9(a)(13), in addition to all rights under any other provisions of law,  
16 shall be entitled to receive \$4,500, \$2,250 of which shall be paid within fifteen (15) calendar  
17 days of the landlord's receipt of written notice from the tenants of their entitlement to the  
18 relocation payment, and \$2,250 of which shall be paid when the tenants vacate the unit.

19 (B) With respect to Subsection 37.9A(e)(1)(A), the Mayor's Office of Housing or  
20 its successor agency shall annually determine the income limits for lower income households,  
21 adjusted for household size.

22 (C) Notwithstanding Subsection 37.9A(e)(1)(A), and irrespective of the size of  
23 the unit, any tenant who receives a notice to quit under Section 37.9(a)(13) and who, at the  
24 time such notice is served, is 62 years of age or older, or who is disabled within the meaning  
25 of Section 12955.3 of the California Government Code, shall be entitled to receive \$3,000,

1 \$1,500 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of  
2 written notice from the tenant of entitlement to the relocation payment, and \$1,500 of which  
3 shall be paid when the tenant vacates the unit.

4 (D) The payments due pursuant to this Subsection 37.9A(e)(1) for any unit  
5 which is occupied by more than one tenant shall be divided equally among all the occupying  
6 tenants, excluding those tenants who are separately entitled to payments under Subsection  
7 37.9A(e)(1)(C) above.

8 (2) **On August 10, 2004 and until** ~~(Effective Date of Ordinance Amendments.)~~  
9 **February 19, 2005.** Where a landlord seeks eviction based upon Section 37.9(a)(13) and  
10 either (i) the notice of intent to withdraw rental units is filed with the Board on or after August  
11 10, 2004 through February 19, 2005 ~~(the effective date of ordinance amendments)~~, or (ii) the  
12 notice of intent to withdraw rental units was filed with the Board prior to August 10, 2004 but  
13 the tenant still resided in the unit as of August 10, 2004, relocation payments shall be paid to  
14 the tenants as follows:

15 (A) Tenants who are members of lower income households, as defined by  
16 Section 50079.5 of the California Health and Safety Code, shall be entitled to receive \$4,500,  
17 \$2,250 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of  
18 written notice from the tenants of their entitlement to the relocation payment, and \$2,250 of  
19 which shall be paid when the tenants vacate the unit.

20 (B) Subject to Subsections 37.9A(e)(2)(C) and (D) below, tenants who are not  
21 members of lower income households, as defined by Section 50079.5 of the California Health  
22 and Safety Code, shall be entitled to receive \$4,500, which shall be paid when the tenant  
23 vacates the unit;

1 (C) In the event there are more than three tenants in a unit, the total relocation  
2 payment shall be \$13,500.00, which shall be divided equally by the number of tenants in the  
3 unit;

4 (D) Notwithstanding Subsection 37.9A(e)(2)(A) and (B), any tenant who, at the  
5 time the notice of intent to withdraw rental units is filed with the Board, is 62 years of age or  
6 older, or who is disabled within the meaning of Section 12955.3 of the California Government  
7 Code, shall be entitled to receive an additional payment of \$3,000.00, \$1,500.00 of which  
8 shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from  
9 the tenant of entitlement to the relocation payment, and \$1,500.00 of which shall be paid  
10 when the tenant vacates the unit.

11 (3) **On or After February 20, 2005.** Where a landlord seeks eviction based upon  
12 Section 37.9(a)(13), and the notice of intent to withdraw rental units is filed with the Board on  
13 or after February 20, 2005, relocation payments shall be paid to the tenants as follows:

14 (A) Subject to Subsections 37.9(e)(3)(B), (C), and (D) below, each tenant shall  
15 be entitled to receive \$4,500.00, one-half of which shall be paid at the time of the service of  
16 the notice of termination of tenancy, and one-half of which shall be paid when the tenant  
17 vacates the unit;

18 (B) In the event there are more than three tenants in a unit, the total relocation  
19 payment shall be \$13,500.00, which shall be divided equally by the number of tenants in the  
20 unit; and

21 (C) Notwithstanding Subsections 37.9A(e)(3)(A) and (B), any tenant who, at the  
22 time the notice of intent to withdraw rental units is filed with the Board, is 62 years of age or  
23 older, or who is disabled within the meaning of Section 12955.3 of the California Government  
24 Code, shall be entitled to receive an additional payment of \$3,000.00, \$1,500.00 of which  
25 shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from



1 the tenant of entitlement to the relocation payment, and \$1,500.00 of which shall be paid  
2 when the tenant vacates the unit.

3 (D) Commencing March 1, 2005, the relocation payments specified in  
4 Subsections 37.9A(e)(3)(A) and (B) and (C) shall increase annually at the rate of increase in  
5 the "rent of primary residence" expenditure category of the Consumer Price Index (CPI) for All  
6 Urban Consumers in the San Francisco-Oakland-San Jose Region for the preceding calendar  
7 year, as that data is made available by the United States Department of Labor and published  
8 by the Board.

9 (E) ~~(i)~~ Notwithstanding Subsections 37.9A(e)(3)(A)-(D), as of ~~June 1, 2014~~ the effective  
10 date of the ordinance creating this subsection (E) (Ordinance No. 54-14)1, each tenant shall be  
11 entitled to a relocation payment equal to the greater of:

12 ~~(i)a.)~~ the payment specified in Subsections 37.9A(e)(3)(A)-(D); or

13 ~~(i)b.)~~ the relocation payment calculated in accordance with Subsection  
14 37.9A(e)(3)(E)(iii) below based on the Rental Payment Differential as described in Subsection  
15 37.9A(e)(3)(E)(ii) below.

16 (ii) The Rental Payment Differential is an amount equal to the difference between the  
17 unit's monthly rental rate at the time the landlord files the notice of intent to withdraw rental  
18 units with the Board, and the monthly market rental rate for a comparable unit in San Francisco  
19 as determined by the Controller's Office, based on data on the San Francisco rental market  
20 acquired from the then most current publication or posting of a publication or posting of  
21 RealFacts or another analysis or analyses of the San Francisco rental market providing a reliable  
22 measure of average market rental rates in San Francisco for the immediately prior calendar year,  
23 and if that year's data is unavailable, data for the most recent prior calendar year that is  
24 available. The Controller shall establish a San Francisco Rental Payment Differential Report within  
25 five business days of the effective date of the ordinance amending this subsection (E) (Ordinance No.

1           ), and thereafter by March 1 of each calendar year. The Controller shall provide such Report  
2 to the Rent Board, which shall make the Report publicly available on the Rent Board's website and at  
3 the Rent Board office. In determining annual changes in the rental market, the Controller shall rely on  
4 market data that reasonably reflects a representative sample of rental apartments in San Francisco.  
5 For a Rental Payment Differential based on RealFacts data, rental rates shall be determined as  
6 follows:

7           a. the rental rate for units with 1 Bedroom shall be based on the data from RealFacts  
8 for a unit with 1 bedroom and 1 bath;

9           b. the rental rate for units with 2 Bedrooms shall be based on the data from RealFacts  
10 for a unit with 2 bedrooms and 2 baths;

11           c. the rental rate for units with 3 or more Bedrooms shall be based on the data from  
12 RealFacts for a unit with 3 bedrooms and 2 baths; and

13           d. the rental rate for units without a Bedroom shall be based on the data from  
14 RealFacts for a studio.

15  
16           (iii) The relocation payment for a unit shall be calculated by multiplying the Rental Payment  
17 Differential by 24 multiplied to cover a two-year period;. Notwithstanding any other provision of  
18 this Section 37.9A, in no event shall the relocation payment for a unit exceed \$50,000. Each tenant in  
19 a of the unit as of the date the landlord files the notice of intent to withdraw rental units with  
20 the Board shall be entitled to the relocation payment for that unit and divided equally by the  
21 number of tenants in the unit (the "Rental Payment Differential"). The landlord shall pay one-half of  
22 the Rental Payment Differential at the time of the service of the notice of termination of tenancy, and  
23 the remaining one-half when the tenant vacates the unit. The Controller shall establish a San  
24 Francisco Rental Payment Differential Schedule within 5 days of the effective date of the ordinance  
25 creating this subsection (E) (Ordinance No. 54-14 \_\_\_\_\_), and thereafter by March 1 of each calendar

1 ~~year. The Controller shall provide such Schedule to the Rent Board, which shall make the Schedule~~  
2 ~~publicly available on the Rent Board's website and at the Rent Board office.~~ In addition to receiving  
3 ~~his or her relocation payment in accordance with the calculation required by this Subsection~~  
4 ~~37.9A(e)(3)(E)(iii) the Rental Payment Differential,~~ any tenant who qualifies for payment under  
5 Subsections 37.9A(e)(3)(C) as adjusted by (D) shall also receive that payment. ~~In determining~~  
6 ~~annual changes in the rental market, the Controller shall rely on market data that reasonably reflects a~~  
7 ~~representative sample of rental apartments in San Francisco. The \$50,000 cap on relocation payments~~  
8 ~~does not include any payments for which the tenant qualifies under Subsections 37.9A(e)(3)(C) as~~  
9 ~~adjusted by (D).~~

10 ~~(iv) The landlord shall pay one half of each tenant's relocation payment under~~  
11 ~~Subsection 37.9A(e)(3)(E)(i)b. at the time of the service of the notice of termination of tenancy~~  
12 ~~and the remaining one half when the tenant vacates the unit; provided, that ~~the~~ landlord shall~~  
13 ~~not have any obligation to pay any portion of the relocation payment under Subsection~~  
14 ~~37.9A(e)(3)(E)(i)b. to the tenant until the tenant submits to the landlord a written statement, executed~~  
15 ~~by the tenant under penalty of perjury, stating that the tenant will use the relocation payment solely for~~  
16 ~~Relocation Costs, as such term is defined in Section 37.9A(e)(3)(E)(vi)b. below, and which provides the~~  
17 ~~address of the rental unit from which the tenant is being evicted, the name of the tenant, the name of~~  
18 ~~the landlord, and the date of the notice of eviction for the unit termination of tenancy (the~~  
19 ~~"Declaration"). On or before the date the landlord serves the tenant with the notice of~~  
20 ~~termination of tenancy, the landlord shall provide the tenant any Declaration form that the~~  
21 ~~Rent Board prepares and makes available on its website and notify the tenant in writing that~~  
22 ~~the landlord does not have an obligation to make any portion of the relocation payment prior~~  
23 ~~to the landlord's receipt of the Declaration. If the landlord receives the Declaration on or after~~  
24 ~~-serving the notice of termination of tenancy, but before the tenant vacates the unit, the~~  
25 ~~landlord shall pay one half of the tenant's relocation payment on receipt of the Declaration and~~

1 the remaining half of the payment on the tenant's vacation of the unit. If the landlord receives  
2 the Declaration on or after the date that the tenant vacates the unit, the landlord shall pay the  
3 full amount of the relocation payment on receipt of the Declaration.

4 (v) For each expenditure of relocation payment, a tenant shall maintain any invoices,  
5 receipts, or other documented proof of the expenditure for a period of at least three years after the date  
6 the tenant vacates the tenant's unit. During this three-year period, the tenant shall provide the  
7 landlord a copy of such proof of expenditure within 10 business days of receipt of a written request  
8 from the landlord. The landlord may request copies of a tenant's proof of expenditure not more than  
9 twice in a 12-month period. No more than three years after the tenant has vacated the unit, the tenant  
10 shall reimburse the landlord for any portion of the relocation payment paid to the tenant that the tenant  
11 cannot demonstrate was used for Relocation Costs.

12 (vi) For purposes of this Section 37.9A, the following definitions apply:

13 a. "Bedroom" means any room that: 1. is used primarily as quarters for sleeping; 2.  
14 contains at least 70 square feet, exclusive of closets, bathrooms, or similar spaces, and 3. has at least  
15 one window opening to an area which leads either to a street, light well, courtyard or rear yard.

16 b. "Relocation Costs" means any of the following costs incurred by an evicted tenant:  
17 rent payments for a replacement dwelling, the purchase price of a replacement dwelling, any costs  
18 incurred in moving to a replacement dwelling, or any costs that the tenant can demonstrate were  
19 incurred to mitigate the adverse impacts on the tenant of the eviction.

20 c. "San Francisco Rental Payment Differential Report" means a report on the average  
21 rental values for dwelling units in San Francisco to be used in calculating relocation payments in  
22 accordance with Subsection 37.9A(e)(3)(E)(iii).

23 (F) Any tenant who has received a notice of termination of tenancy, but who has not  
24 yet vacated the unit by the operative date of the ordinance creating subsection (E) and this  
25 subsection (F) (Ordinance No. 54-14), shall be entitled to the greater of the relocation payment

1 specified in Section 37.9A(e)(3)(A)-(D) or the relocation payment calculated in accordance with  
2 Subsection 37.9A(e)(3)(E)(iii) Rental Payment Differential, reduced by any payment the tenant has  
3 received under Subsections 37.9A(e)(3)(~~A~~)-(D), (~~B~~), and (~~C~~) as adjusted by (~~D~~), upon vacating  
4 the unit.

5 (G) (i) If payment of the relocation payment Rental Payment Differential under  
6 Subsection 37.9A(e)(3)(E)(~~ii~~)-(i)b. would constitute an undue financial hardship for a landlord  
7 in light of all of the resources available to the landlord, the landlord may file a written request,  
8 on a form provided by the Rent Board, for a hearing for a hardship adjustment ("Hardship  
9 Adjustment Request") with the Rent Board, with supporting evidence. The Board, or its  
10 designated Administrative Law Judges, may order a reduction, payment plan, or any other  
11 relief they determine is justified following a hearing on the request.

12 (ii) At a hearing for hardship adjustment under Subsection (i), the Board, or its  
13 designated Administrative Law Judges, shall consider all relevant factors, including the  
14 number of units in the building and any evidence submitted regarding the landlord's age,  
15 length of ownership of the building, ownership of any other buildings, income, expenses, other  
16 assets, debt, health, and health care costs, except as provided in Subsection (iii).

17 (iii) At a hearing for hardship adjustment under Subsection (i), the Board, or its  
18 designated Administrative Law Judges, shall not consider any of the following types of assets  
19 owned by the landlord:

- 20 a. Assets held in retirement accounts; and
- 21 b. Non-liquid personal property.

22 (H) Without limiting or otherwise affecting the landlord's right to obtain a  
23 hardship adjustment under Subsection 37.9A(e)(3)(G), the landlord may file a written request,  
24 on a form provided by the Rent Board, for a hearing with the Rent Board claiming that the San  
25 Francisco Rental Payment Differential Schedule Report established in Subsection

1 37.9A(e)(3)(E)(ii) does not reasonably reflect the market rental rate for a comparable unit in  
2 San Francisco and would result in an overpayment by the landlord ("Rent Differential  
3 Recalculation Request"). The landlord shall include evidence in support of the request. If the  
4 Board, or its designated Administrative Law Judges, grant(s) the request in whole or part, they  
5 shall order an appropriate adjustment of the payment due from the landlord.

6 (I) For purposes of considering Hardship Adjustment and Rent Differential  
7 Recalculation Requests under Subsections 37.9A (e)(3)(G) and (H), the Board shall follow a  
8 process consistent with the existing Board hearing process under Section 37.8. If a landlord  
9 submits both types of hearing requests, the Board may consolidate its hearing of the two  
10 requests.

11 \* \* \* \*

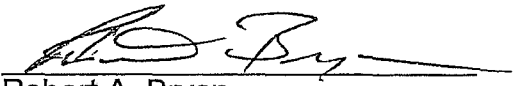
12 Section 3. Effective Date. This ordinance shall become effective 30 days after  
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
15 of Supervisors overrides the Mayor's veto of the ordinance.

16 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
17 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
18 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
19 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
20 additions, and Board amendment deletions in accordance with the "Note" that appears under  
21 the official title of the ordinance.

22 Section 5. Severability. If any section, subsection, sentence, clause, phrase or word of  
23 this ordinance, or any application thereof to any person or circumstance, is held to be invalid  
24 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not  
25

1 affect the validity of the remaining portions or application of the ordinance. The Board of  
2 Supervisors hereby declares that it would have passed this ordinance and each and every  
3 section, subsection, sentence, clause, phrase, and word not declared invalid or  
4 unconstitutional without regard to whether any other portion of this ordinance or application  
5 thereof would be subsequently declared invalid or unconstitutional.  
6  
7

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

10 By:   
11 Robert A. Bryan  
12 Deputy City Attorney

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**LEGISLATIVE DIGEST**  
**(4/13/15 - Amended in Committee)**

[Administrative Code - Relocation Payments to Evicted Tenants]

**Ordinance amending the Administrative Code to modify the calculation of the difference between the rent paid by an evicted tenant and market rent (rental payment differential) by having the Controller use data from RealFacts based on number of bedrooms, or another data source providing reliable market data; to cap relocation payments based on the rental payment differential at \$50,000 for each unit; to require the tenant to submit to the landlord a sworn statement of intent to use the relocation payment solely for housing or other relocation costs; to require the tenant to keep proof of expenditures on relocation costs for at least three years after vacating the unit, and to make copies available to the landlord within 10 business days of a request; and to require the tenant to reimburse the landlord any portion of the relocation payment not expended on relocation costs within three years after vacating the unit.**

Existing Law

As of June 1, 2014, Administrative Code Section 37.9A(e)(3)(E) requires landlords to pay an evicted tenant the greater of amounts specified in Subsections 37.9A(e)(3)(A)-(D) (the "Subsection 37.9A(e)(3)(A)-(D) Amount") and an amount equal to the difference between the monthly rental rate of the tenant's rental unit at the time the landlord files with the Rent Board the notice of intent to withdraw the unit from the rental market, and the monthly market rental rate for a comparable unit in San Francisco as determined by the Controller's Office, multiplied by 24 (for a two year period), and divided by the number of the tenants in the unit. One half of the rental payment differential calculated by the Controller is paid when the landlord serves the notice of termination of tenancy and the other half is paid when the tenant vacates the premises. The existing law neither limits the amount that might be paid to a tenant nor states the purposes for which the payments may be spent.

Amendments to Current Law

The amendments to the Administrative Code modifies the method of calculating the relocation payment to be paid tenants as of June 1, 2014, cap the maximum amount of the payment at \$50,000 for each unit, specify the purposes for which the payment can be expended, and impose additional requirements on landlords and tenants regarding the receipt and expenditure of the payment.

The amendments require landlords to pay an evicted tenant the difference between the Subsection 37.9A(e)(3)(A)-(D) Amount and the payment calculated based on the Rental Payment Differential. The Rental Payment Differential is equal to the difference between the



monthly rental rate of the tenant's rental unit at the time the landlord files with the Rent Board the notice of intent to withdraw the unit from the rental market and the market rental rate for the unit in San Francisco as determined by the Controller based on data from the posting or publication of RealFacts or other analysis or analyses of the San Francisco rental market providing reliable average market rental rates in San Francisco for the immediately prior calendar year, and if that year's data is unavailable, for the most recent prior calendar year that is available. The relocation payment for each unit shall be an amount equal to the Rental Payment Differential multiplied by 24 to cover a two-year period. The relocation payment for a unit shall not exceed \$50,000. Each tenant of a unit as of the date the landlord files the notice of intent to withdraw the unit shall be entitled the relocation payment for that unit divided by the number of tenants in the unit. The Controller is required to provide the Rent Board the Controller's determination of the average rental values to be used in calculating the Rental Payment Differential for units within 5 business days of the effective date of this amendment, and by March 1 of each calendar year thereafter.

When using RealFacts data to determine the average rental values, the Controller shall use the number of "Bedrooms" in the unit to determine the rental rate, in the following manner: (1) the rental rate for units with 1 Bedroom shall be based on data from RealFacts for units with 1 bedroom and 1 bath; (2) the rental rate for units with 2 Bedrooms shall be based on data from RealFacts for units with 2 bedrooms and 2 baths; (3) the rental rate for units with 3 or more Bedrooms shall be based on data from RealFacts for units with 3 bedrooms and 2 baths; and (4) the rental rate for units without a Bedroom shall be based on data from RealFacts for a studio. The amendment defines "Bedroom" to mean a room that is primarily used as sleeping quarters, is at least 70 square feet in area, exclusive of closets and similar spaces, and has at least one window opening to an area leading to a street, light well, courtyard or rear yard.

A landlord does not have an obligation to make any payment of any portion of the relocation payment to a tenant until the landlord receives from the tenant a written statement, executed under penalty of perjury, stating that the tenant will use the payment solely for Relocation Costs, as defined in the amendments, and providing the address of the unit, the name of the landlord, the name of the tenant, and the date of the eviction (the "Declaration"). On or before the date a landlord serves a tenant with the notice of termination of tenancy, the landlord must provide the tenant any Declaration form that the Rent Board has prepared and made available on its website, and notify the tenant in writing that the landlord does not have an obligation to make any relocation payment until the landlord has received the completed Declaration. If a landlord receives the Declaration on or after serving the notice of termination of tenancy, but before the tenant vacates the unit, the landlord must pay one half of the tenant's relocation payment on receipt of the Declaration and the remaining half on the tenant's vacation of the unit. If the landlord receives the Declaration on or after the date that the tenant vacates the unit, the landlord must pay the full amount of the relocation payment on receipt of the Declaration. The amendments define Relocation Costs as meaning rent payments for a replacement dwelling, the purchase price of a replacement dwelling, and cost incurred by the tenant in moving to a replacement dwelling, or any cost that were incurred to mitigate adverse impacts on the tenant of the eviction.

Each tenant is required to maintain any documented proof of expenditures for at least three years after the date the tenant vacates the unit. During this period, the tenant must provide the landlord, on written request, copies of the documented proof within 10 business days of the receipt of the request. But the landlord may not make more than two requests for records in any 12-month period. Within three years of vacating the unit, the tenant must reimburse to the landlord any portion of the payments not expended on Relocation Costs.

#### Background Information

Landlords have sued the City (*Levin v. City and County of San Francisco*, (United States District Court, Northern District of California, 3:14-CV-03352-CRB, 2014)), seeking declaratory and injunctive relief from current ordinance, which required each to make relocation payments they deemed excessive. Under the ordinance, the landlords were required to make relocation payments in excess of \$100,000 per tenant. The Court determined that there was insufficient nexus between the landlords' conduct and the harm to the tenants (that the landlord did not cause the high rental market in San Francisco), and that the payments were not roughly proportional to the harm because the plaintiffs were not required to spend the payments on costs related to the eviction. The Court enjoined the City from enforcing the ordinance. The City has appealed to the Ninth Circuit. The amendments to the legislation attempt to address the Court's concerns.

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BOARD of SUPERVISORS



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## MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing & Community Development  
Ben Rosenfield, City Controller  
Delene Wolf, Executive Director, Rent Board

FROM: Andrea Ausberry, Assistant Clerk, Land Use and Transportation Committee,  
Board of Supervisors

DATE: March 6, 2015

SUBJECT: SUBSTITUTED - LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following substituted legislation, introduced by Supervisor Campos on February 24, 2015:

150117

Ordinance amending the Administrative Code to modify the calculation of the difference between the rent paid by an evicted tenant and market rent (rental payment differential) by having the Controller use data from RealFacts based on number of bedrooms, or another data source providing reliable market data; to cap relocation payments based on the rental payment differential at \$50,000; to require the tenant to submit to the landlord a sworn statement of intent to use the relocation payment solely for housing or other relocation costs; to require the tenant to keep proof of expenditures on relocation costs for at least three years after vacating the unit, and to make copies available to the landlord within ten business days of a request; and to require the tenant to reimburse the landlord any portion of the relocation payment not expended on relocation costs within three years after vacating the unit.

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: Sophie Hayward, Housing & Community Development  
Todd Rydstrom, Deputy City Controller  
Ted Egan, Chief Economist

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. [ 150117 ]
- 9. Reactivate File No. [ ]
- 10. 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 Form.

Sponsor(s):

Campos; Kim, Avalos

Subject:

Administrative Code - Relocation Payments to Evicted Tenants

The text is listed below or attached:

[ ]

Signature of Sponsoring Supervisor:

For Clerk's Use Only: