

BOARD of SUPERVISORS



City Hall
1 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

Date: October 17, 2019

To: Robert Collins, Executive Director, Rent Board

From:  Angela Calvillo, Clerk of the Board of Supervisors

Subject:  Urging the Rent Board to Adopt Fair Guidelines for the Use of
"Reasonable Reliance" in the Evaluation of Operating and Maintenance
Pass-Throughs (File No. 190982)

On October 1, 2019, the Board of Supervisors adopted Resolution No. 434-19, sponsored by Supervisor Vallie Brown (File No. 190982, Urging the Rent Board to Adopt Fair Guidelines for the Use of "Reasonable Reliance" in the Evaluation of Operating and Maintenance Pass-Throughs); enacted on October 11, 2019.

Attached please find a copy of the Resolution for the Rent Board's information and consideration, which is being sent as directed by the Resolution.

If you have any questions or concerns, please contact the Office of the Clerk of the Board at (415) 554-5184.

c: Members of the Board of Supervisors; Supervisors Vallie Brown, Aaron Peskin, Sandra Lee Fewer, Norman Yee, Hillary Ronen, Matt Haney

1 [Urging the Rent Board to Adopt Fair Guidelines for the Use of “Reasonable Reliance” in the
2 Evaluation of Operating and Maintenance Pass-Throughs]

3 **Resolution urging the Rent Stabilization and Arbitration Board to adopt fair and**
4 **objective guidelines, upholding the spirit of the Rent Ordinance outlined in Chapter 37**
5 **of the Administrative Code, for the use of “reasonable reliance” in the evaluation of**
6 **operating and maintenance pass-through petitions, including specific criteria**
7 **demonstrating their reliance on additional rent increases to pay for increased**
8 **expenses.**

9
10 WHEREAS, In April, 1979, pending development and adoption of measures designed
11 to alleviate the City’s housing crisis, the Board of Supervisors adopted Ordinance No. 181-79
12 prohibiting most rent increases on residential rental properties for 60 days, in an attempt to
13 create space for the formation of the Residential Rent Stabilization and Arbitration Board,
14 tasked with safeguarding tenants from excessive and exorbitant rent increases, as well as
15 ensuring that landlords receive fair and adequate rents consistent with the Federal Anti-
16 Inflation Guidelines; and

17 WHEREAS, On June 5, 2018, the Board of Supervisors voted unanimously to adopt
18 Ordinance No. 132-18, (on file with the Clerk of the Board of Supervisors in File No 180318),
19 which was intended to prevent landlords from raising rents on existing tenants by passing
20 through the debt service and property tax increases that have resulted from a change in
21 ownership of rent-controlled buildings; and

22 WHEREAS, Chapter 37 of the Administrative Code and Section 6.10(e)(1)(b) of the
23 Rent Stabilization and Arbitration Board’s Rules & Regulations both reference the concept of
24 “reasonable reliance,” wherein a landlord or corporation who purchased property prior to the
25 introduction of the legislation on April 3, 2018, and filed a pass-through petition after

1 December 11, 2017, may pass through debt service and property tax increases if the landlord
2 or corporation can demonstrate they “had reasonably relied on (the) ability to pass through
3 those costs at the time of purchase,” which in practice has led to a permanent rent increase
4 for many tenants above and beyond that which is allowed and controlled for by the Rent
5 Ordinance; and

6 WHEREAS, The Board of Supervisors included this clause with the intent of
7 grandfathering property owners who had already purchased a building prior to the introduction
8 of the legislation to allow for the Rent Board to consider whether or not they truly relied on the
9 additional rent increase above the annual allowable increase in order to pay off increased
10 expenses; and

11 WHEREAS, The majority of the Operating & Maintenance pass-through petitions
12 pending before the Rent Board have been filed by large corporate investment firms and
13 landlords who own and manage hundreds of buildings (CBS News recently placed one firm at
14 500 buildings in San Francisco alone) with thousands of rent-controlled tenants, many living
15 on fixed incomes; and

16 WHEREAS, Rent Board members have recently opined that without clear guidelines on
17 how to interpret Section 6.10(e)(1)(B) of the Rules & Regulations, they lack clear direction on
18 standards for evaluation of pending petitions, and risk undermining the purposes of Ordinance
19 No. 132-18 and the Operating & Maintenance process, which will cause existing rent-
20 controlled tenants potential hardship, undue rent burden, displacement and uncertainty, and
21 as a result the Rent Board has directed staff to draft guidelines for adoption; now, therefore,
22 be it

23 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
24 urge the San Francisco Rent Stabilization and Arbitration Board to adopt fair and objective
25 guidelines, upholding the spirit of the Rent Ordinance outlined in Chapter 37 of the

1 Administrative Code, for the use of “reasonable reliance” in the evaluation of Operations &
2 Maintenance pass-through petitions, including specific criteria demonstrating their reliance on
3 additional rent increases to pay for increased expenses; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
5 Francisco finds that the burden of proof to demonstrate “reasonable reliance” should be on
6 the property owner and/or landlord, and specific criteria could include providing net operating
7 income information; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors hereby directs the Clerk of the
9 Board to send a copy of this Resolution upon passage to the San Francisco Rent Board.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



City and County of San Francisco

Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 190982

Date Passed: October 01, 2019

Resolution urging the Rent Stabilization and Arbitration Board to adopt fair and objective guidelines, upholding the spirit of the Rent Ordinance outlined in Chapter 37 of the Administrative Code, for the use of "reasonable reliance" in the evaluation of operating and maintenance pass-through petitions, including specific criteria demonstrating their reliance on additional rent increases to pay for increased expenses.

October 01, 2019 Board of Supervisors - ADOPTED

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

File No. 190982

I hereby certify that the foregoing Resolution was ADOPTED on 10/1/2019 by the Board of Supervisors of the City and County of San Francisco.

for Angela Calvillo
Clerk of the Board

Unsigned

London N. Breed
Mayor

10/11/2019

Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without her approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

for Angela Calvillo
Clerk of the Board

10/11/2019

Date