

File No. 211096

Committee Item No. 7

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Rules Committee

Date Feb 7, 2022

Board of Supervisors Meeting

Date _____

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Completed by: Victor Young Date Feb 3, 2022

Completed by: _____ Date _____

1 [Administrative Code - Tenant Organizing]

2

3 **Ordinance amending the Administrative Code to require residential landlords to allow**
 4 **tenant organizing activities to occur in common areas of the building; require certain**
 5 **residential landlords to recognize duly-established tenant associations, confer in good**
 6 **faith with said associations, and attend some of their meetings upon request; and**
 7 **provide that a landlord's failure to allow organizing activities or comply with their**
 8 **obligations as to tenant associations may support a petition for a rent reduction.**

9

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.

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

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Section 1. Chapter 49A of the Administrative Code is hereby amended by revising
 17 existing Sections 49A.1, 49A.2, and 49A.3; renumbering existing Sections 49A.2 and 49A.3
 18 as Sections 49A.3 and 49A.6 respectively; and adding new Sections 49A.2, 49A.4, and 49A.5,
 19 to read as follows:

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SEC. 49A.1. PURPOSE AND FINDINGS.

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The Board of Supervisors finds that, particularly with the large proportion of rental
 23 units in the City and County of San Francisco, ~~good-effective~~ communications among tenants
 24 and between tenants and landlords ~~about these tenancies~~ is important to the ongoing vitality of

25

1 the community. This ~~Ordinance~~Chapter 49A is intended to encourage and respect those
2 ~~communicative channels for effective communication.~~

3
4 **SEC. 49A.2. DEFINITIONS.**

5 For purposes of this Chapter 49A, the following definitions shall apply:

6 “Landlord” shall have the meaning set forth in Administrative Code Section 37.2. The term
7 “landlord” includes landlord agents and representatives, such as property managers.

8 “Organizing Activities” shall mean 1) initiating contact with tenants, including by
9 conducting door-to-door surveys, to ascertain interest in and/or seek support for forming a Tenant
10 Association; 2) joining or supporting a Tenant Association; 3) distributing literature, requesting or
11 providing information, offering assistance, convening meetings (which may occur without a landlord or
12 landlord representative present), or otherwise acting on behalf of one or more tenants in the building
13 regarding issues of common interest or concern. The term “Organizing Activities” shall include, but is
14 not limited to, the operations of a Tenant Association.

15 “Tenant” shall have the meaning set forth in Administrative Code Section 37.2.

16 “Tenant Association” shall mean a group specific to a building with five or more rental units
17 that has a primary purpose of addressing housing conditions, community life, landlord-tenant relations,
18 and/or similar issues of common interest or concern among tenants in the building.

19
20 **SEC. 49A.32. NON-INTERFERENCE IN ORGANIZING ACTIVITIES.**

21 (a) A landlord may ~~not~~ neither prohibit nor interfere with an occupant of a rental unit in a
22 tenant who resides in a building, or a guest invited by an occupant, from using common areas in
23 that building to engage in Organizing Activities ~~distribute literature to other building tenants,~~
24 ~~including literature distributed on behalf of a tenants' association or other tenants' organization, where~~
25 ~~the literature relates to issues of common interest or concern to the buildings' tenancies.~~

1 ~~(b)(a)~~ Distribution of literature may include hanging or otherwise placing literature on
2 the door of tenant units, or where that is not possible as a practical matter then the literature
3 may be placed on the floor in front of tenant units. Such literature placed on or in front of the
4 door of a tenant unit must plainly include the name and telephone number and address of a
5 distributor that the affected tenant may contact to opt out of future doorway distributions of
6 such literature.

7 ~~(c)(b)~~ The landlord may establish ~~other~~ reasonable requirements as to the time,
8 place, and manner, ~~and volume~~, of Organizing Activities, so long as the requirements would not
9 effectively prohibit or substantially interfere with Organizing Activities ~~such literature distribution,~~
10 ~~including a limitation of distribution under this Chapter to no more than once per calendar Quarter.~~

11 (d) Lease agreements entered into or amended on or after January 1, 2022 may not waive a
12 tenant's right to engage in Organizing Activities as set forth in this Chapter 49A. Any provision of any
13 lease agreement entered into or amended on or after January 1, 2022 that purports to waive a tenant's
14 right to engage in Organizing Activities as set forth in this Chapter 49A shall be void as contrary to
15 public policy.

16
17 **SEC. 49A.4. TENANT ASSOCIATIONS.**

18 (a) Tenants in a building may establish a Tenant Association for purposes of this Chapter
19 49A by providing their landlord a petition signed by tenants representing at least 50% of the occupied
20 units in the building certifying that they desire to form a Tenant Association, and identifying the Tenant
21 Association. For purposes of this subsection (a), a "petition" may include individual written
22 statements signed by said tenants, or some combination of individual and collective written statements.

23 (b) Tenant Associations shall hold regular meetings open to all building residents, and shall
24 elect officers to serve for two-year terms. An officer may continue to hold over after the expiration of
25 their term unless a resident requests an election, in which case an election shall be held within 60 days.

1 (c) Landlords and Tenant Associations shall confer with each other in good faith regarding
2 housing conditions, community life, landlord-tenant relations, and other issues of common interest or
3 concern. Examples of conferring in good faith may include maintaining a designated point of contact,
4 engaging in regular communications, responding to reasonable requests for information, allowing
5 participation by non-resident advocates, and negotiating and putting agreements into writing. In
6 addition, a landlord must on written request of a Tenant Association attend at least one Tenant
7 Association meeting per calendar quarter, though more frequent attendance at the request of the
8 Tenant Association is permitted. These meetings shall occur at a mutually convenient time and place.
9 To request that a landlord attend a meeting, the Tenant Association shall send the landlord a written
10 request at least 14 days in advance; alternatively, if the Tenant Association meets at a regularly
11 scheduled time and place, then the Tenant Association may send the landlord a single standing request
12 to attend meetings for the duration of the calendar year.

13 (d) A Tenant Association shall remain operative so long as it continues to represent at least
14 50% of the occupied units in the building. Not more than once every three years, the landlord may
15 request in writing that the Tenant Association recertify itself under the petition procedure set forth in
16 subsection (a), in which case the Tenant Association shall have 60 days to recertify itself. If the Tenant
17 Association does not timely recertify itself upon the landlord's request, it shall be temporarily
18 suspended, and the requirements in this Section 49A.4 shall cease to apply, until such time, if any, as
19 the Tenant Association is recertified, or another Tenant Association is certified in accordance with the
20 requirements in this Section 49A.4.

21 (e) This Section 49A.4 shall not apply to buildings where the landlord is a non-profit
22 organized under 26 U.S.C. 501(c)(3).

1 **SEC. 49A.5. REGULATIONS; REMEDIES.**

2 The Rent Board shall have authority to issue rules and regulations implementing this Chapter
3 49A. In addition, a tenant’s right to engage in Organizing Activities, and to have Organizing Activities
4 occur in their building, shall qualify as a “Housing Service” under Administrative Code Section
5 37.2(g). A landlord’s failure to comply with the requirements of this Chapter 49A, including but not
6 limited to the requirements to confer with and attend the meetings of a Tenant Association in good faith
7 as set forth in Section 49A.4, may support a petition for a substantial decrease in housing services
8 pursuant to Administrative Code Section 37.8.

9
10 **SEC. 49A.63. LIMITATIONS.**

11 (a) The provisions of this Chapter 49A are not applicable to purely commercial
12 literature that is not directly related to the building tenancies.

13 (b) The provisions of this Chapter 49A shall not be read to limit or replace residential
14 tenant or landlord rights or remedies found in other ordinances, or in statutes or Constitutions.

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16 Section 2. Effective Date. This ordinance shall become effective 30 days after
17 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
18 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
19 of Supervisors overrides the Mayor’s veto of the ordinance.

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1 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7

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

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11 By: /s/
12 MANU PRADHAN
13 Deputy City Attorney
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LEGISLATIVE DIGEST

[Administrative Code - Tenant Organizing]

Ordinance amending the Administrative Code to require residential landlords to allow tenant organizing activities to occur in common areas of the building; require certain residential landlords to recognize duly-established tenant associations, confer in good faith with said associations, and attend some of their meetings upon request; and provide that a landlord's failure to allow organizing activities or comply with their obligations as to tenant associations may support a petition for a rent reduction.

Existing Law

Under Chapter 49A of the Administrative Code, a landlord may not prohibit tenants from using building common areas to distribute literature on behalf of a tenants' association or other tenants' organization regarding issues of common interest or concern to other tenants. Meanwhile, under Chapter 37 of the Administrative Code, if a landlord provides housing services in conjunction with the use and occupancy of a unit (e.g., repairs, maintenance, elevator service), and then substantially reduces those services, the tenant may file a petition for a rent reduction with the Rent Board.

Amendments to Current Law

The ordinance would amend Chapter 49A to require landlords to allow tenant organizing activities in building common areas – not just literature distribution, but also other activities regarding issues of common concern such as initiating contact (e.g., door-to-door surveys) to ascertain interest in forming a tenant association, and allowing participation by non-resident advocates in meetings. Leases entered into or amended on or after January 1, 2022 could not require tenants to waive these rights.

The ordinance would also amend Chapter 49A to recognize the right of tenants in buildings with five or more rental units (unless the landlord is a 501(c)(3) non-profit) to form Tenant Associations. Tenants could form Tenant Association by securing the approval of a majority of the occupied units in the building. A landlord could request once every three years that the Tenant Association reconfirm that it still has that support and remains in good standing. Landlords and Tenant Associations in good standing would be required to confer with each other in good faith. On written request of the Tenant Association, the landlord (or their representative) would need to attend at least one Tenant Association meeting every three months.

The Rent Board would have authority to issue rules and regulations to the extent necessary to implement Chapter 49A. Also, a tenant's right to have organizing activities in their building or to would qualify as a "housing service" under Chapter 37. A landlord's failure to allow

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organizing activities or confer with the Tenant Association in good faith could be used to support a petition for a substantial decrease in housing services.

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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

TO: Robert Collins, Executive Director, Rent Board

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: October 27, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 211096

Ordinance amending the Administrative Code to require residential landlords to allow tenant organizing activities to occur in common areas of the building; require certain residential landlords to recognize duly-established tenant associations, confer in good faith with said associations, and attend some of their meetings upon request; and provide that a landlord's failure to allow organizing activities or comply with their obligations as to tenant associations may support a petition for a rent reduction.

If you have 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 or by email at: victor.young@sfgov.org.