

[Administrative Code - Displaced Tenant Preference in City Affordable Housing]

Ordinance amending the Administrative Code to expand the Displaced Tenant Preference in City Affordable Housing Programs to cover tenants where the tenant's unit is ~~no~~ will no longer ~~be~~ restricted by a regulatory agreement or other affordable housing restriction within five years and ~~the landlord has increased the~~ market-rate rent in such tenant's building is ~~to~~ be more than 40% of the tenant's gross household income.

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. Chapter 47 of the Administrative Code is hereby amended by revising Section 47.2, to read as follows:

SEC. 47.2. DEFINITIONS.

* * * *

"Displaced Tenant" shall mean any person who applies to MOHCD and who MOHCD determines qualifies under any of the categories below. If a person disputes MOHCD's determination that he or she does not qualify as a "Displaced Tenant" under this Section 47.2, 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:

1 Category 1: A tenant residing in San Francisco who on or after January 1, 2010
2 receives a Notice of Intent to Withdraw Rental Units ("Notice of Intent to Withdraw") pursuant
3 to the Ellis Act, California Government Code Sections 7060 et seq., and corresponding
4 provisions of the Rent Ordinance. MOHCD shall establish a process for a tenant to verify his
5 or her status as a "Displaced Tenant" under Category 1 that, at a minimum, shall require a
6 tenant to show: (a) the landlord filed with the Rent Board a Notice of Intent to Withdraw; and
7 (b) the tenant either: (1) is listed on the Notice of Intent to Withdraw; (2) is listed on the lease
8 for the unit in question; or (3) has other evidence sufficient to establish, in MOHCD's
9 reasonable discretion, that he or she resided in the unit at the time the Notice of Intent to
10 Withdraw was filed. If the Rent Board grants a landlord's request to rescind the Notice of
11 Intent to Withdraw before a tenant moves out of his or her unit, such tenant shall no longer
12 qualify as a "Displaced Tenant."

13 Category 2: A tenant residing in San Francisco who on or after January 1, 2010
14 receives a notice that his or her landlord plans to recover possession of the unit under Section
15 37.9(a)(8) of the Rent Ordinance. MOHCD shall establish a process for a tenant to verify his
16 or her status as a "Displaced Tenant" under Category 2 that, at a minimum, shall require a
17 tenant to show: (a) the landlord filed with the Rent Board the notice to vacate, as required
18 under Rent Ordinance Section 37.9(c); and (b) the tenant either: (1) is listed on the notice to
19 vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence sufficient to
20 establish, in MOHCD's reasonable discretion, that he or she resided in the unit at the time the
21 notice to vacate was filed.

22 Category 3: A tenant residing in San Francisco who is required to vacate his or her
23 unit by a public safety official due to fire, and who can provide sufficient evidence to MOHCD
24 that demonstrates that he or she cannot return to the unit within a period of six months from
25 the date of the order to vacate the unit. MOHCD shall establish a process for a tenant to verify

1 his or her status as a "Displaced Tenant" under Category 3 that, at a minimum, shall require a
2 tenant to show: (a) a public safety official provided an order to vacate the unit to such tenant
3 or to the owner of the unit; and (b) the tenant either: (1) is listed on the order to vacate; (2) is
4 listed on the lease for the unit in question; or (3) has other evidence sufficient to establish, in
5 MOHCD's reasonable discretion, that he or she resided in the unit at the time the order was
6 provided. This Category 3 "Displaced Tenant" preference shall expire by operation of law on
7 December 31, 2020, provided, however, that MOHCD may determine after December 31,
8 2020 that a person who applied to MOHCD under Category 3 on or prior to December 31,
9 2020 qualifies as a Displaced Tenant.

10 Category 4: A tenant residing in San Francisco who is vacating the tenant's unit because
11 MOHCD has verified that a multi-family residential property is will no longer be restricted to ensure
12 affordability based on income under any regulatory agreement (including a regulatory agreement
13 based on the issuance of housing mortgage revenue bonds) or other affordable housing agreement
14 and/or recorded instrument within 5 years, and the landlord of such property has leased
15 unrestricted residential rental units in the same building at a market rent that is more than
16 increase such tenant's total annual rent above 40% of the tenant's total annual gross household
17 income. MOHCD shall establish a process for a tenant to verify the tenant's status as a "Displaced
18 Tenant" under Category 4 that, at a minimum, shall require the tenant to show: (a) documentation of
19 the tenant's total gross household income on a form provided by MOHCD in accordance with the
20 Inclusionary Procedures Manual in effect at the time of application for a "Displaced Tenant" housing
21 preference; (b) evidence that market rate rent in the tenant's building written documentation
22 from the landlord, in a form prescribed by MOHCD, that the household will is required to
23 execute a new lease with a rent amount that exceeds 40% of the tenant's current total annual
24 gross household income; and (c) the tenant either: (1) is listed on the lease for the unit in question; or
25

1 (2) has other evidence sufficient to establish, in MOHCD's reasonable discretion, that he or she resides
2 in the unit at the time the landlord increased the tenant's rent.

3 * * * *

4 Section 2. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
12 additions, and Board amendment deletions in accordance with the "Note" that appears under
13 the official title of the ordinance.

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By:

18 
19 KEITH NAGAYAMA
20 Deputy City Attorney

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23
24
25

LEGISLATIVE DIGEST
(Revised 6/3/19)

[Administrative Code - Displaced Tenant Preference in City Affordable Housing]

Ordinance amending the Administrative Code to expand the Displaced Tenant Preference in City Affordable Housing Programs to cover tenants where the tenant's unit will no longer be restricted by a regulatory agreement or other affordable housing restriction within five years and market-rate rent in such tenant's building is more than 40% of the tenant's gross household income.

Existing Law

Current law provides preference in all City Affordable Housing Programs to certain "Displaced Tenants" residing in San Francisco under three categories: (1) tenants who have been evicted based on a Notice of Intent to Withdraw Units under the Ellis Act (California Government Code Sections 7060 *et seq*); (2) tenants who have been evicted based on an "Owner Move-In" under Administrative Code Section 37.9(a)(8); or (3) tenants who are forced to vacate by a public safety official due to fire and cannot return to their units within six months.

Amendments to Current Law

The purpose of this ordinance is to expand the definition of "Displaced Tenant" to tenants who live in a multi-family residential building that will no longer be restricted to ensure affordability based on income under a regulatory agreement or other affordable housing restriction within 5 years, and the market rate rent for unrestricted rental units in the same building is more than 40% of the tenants' total annual household income. A tenant certified under this category would receive a preference in the City's affordable housing programs.

Background Information

Certain multifamily residential buildings are restricted for a period of time to ensure that all or a portion of the rental units are available to income-eligible tenants and the rent for such units is restricted based on a tenant's household income and size. After the period of affordability restrictions expire, a landlord may increase a tenant's rent to market rate regardless of the tenant's household income. In such event, a tenant might be burdened with a substantial rent increase and an annual rent amount that exceeds 40% of annual household income, in which case the tenant could be displaced to find housing more affordable to the household.

Displaced Tenant Housing Preference (DTHP)

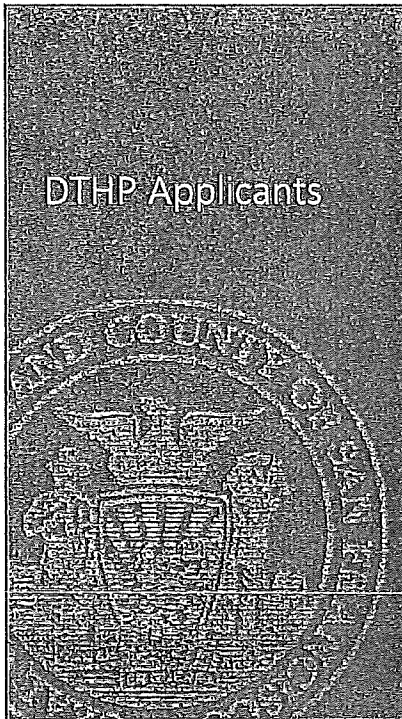


Mayor's Office of Housing and Community Development
City and County of San Francisco

DTHP Categories

20% Set-a-Side in
City Sponsored
Affordable
Housing Lotteries

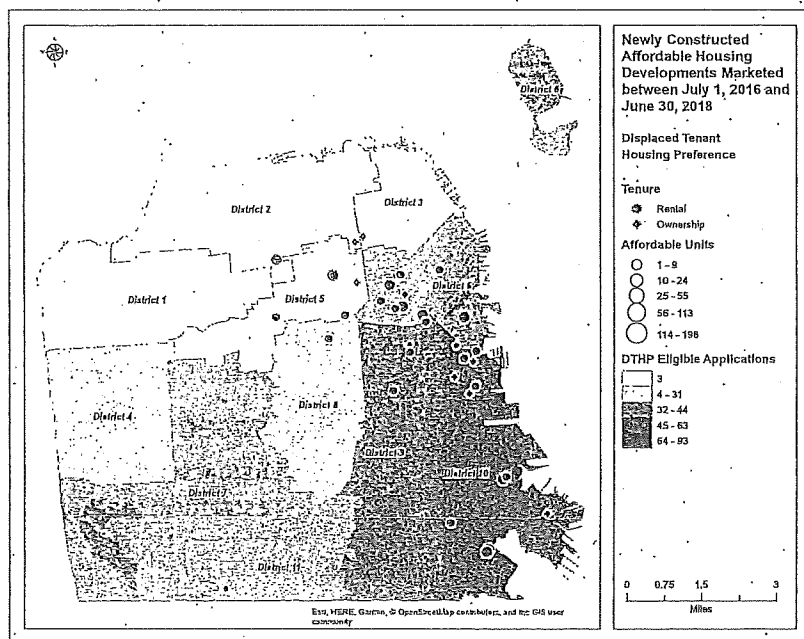
- Category I
 - Displacement due to Ellis Act
- Category II
 - Displacement due to owner move-in
- Category III
 - Displacement by fire and cannot return to unit within 6 months
- Proposed Category IV
 - Displacement due to expiration of affordability restriction leading to rent burden



- 1,098 applications received to date
- 905 approved certificate holders
 - OMI – 365
 - Ellis – 462
 - Fire – 78
- 82% of applicants successfully receive certificates

Mayor's Office of Housing and Community Development

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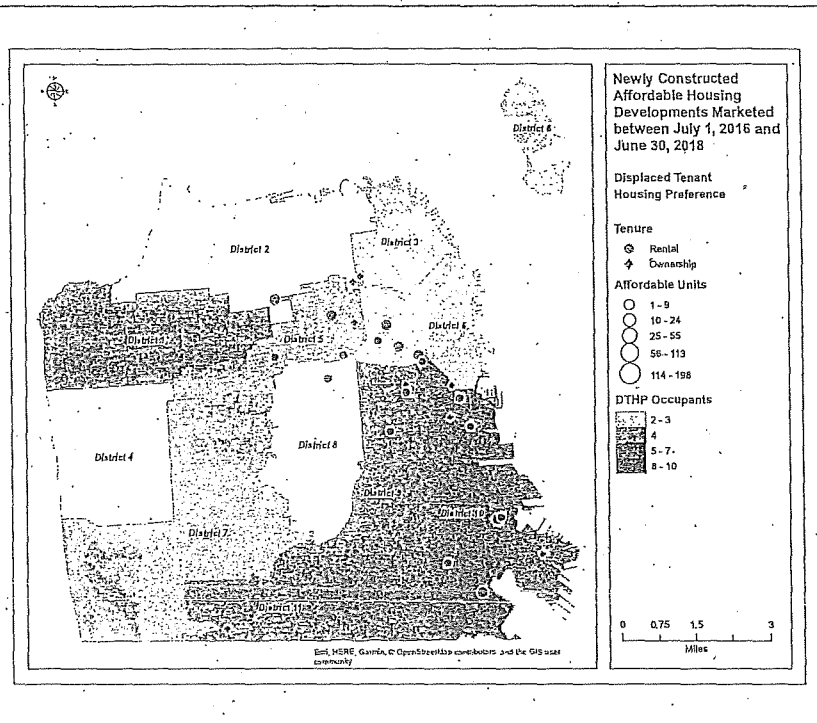


DTHP Occupancy

FY16-18
All Affordable Lottery Units
 1,042 in 34 developments

New Construction Units
 70 households took occupancy in 27 developments

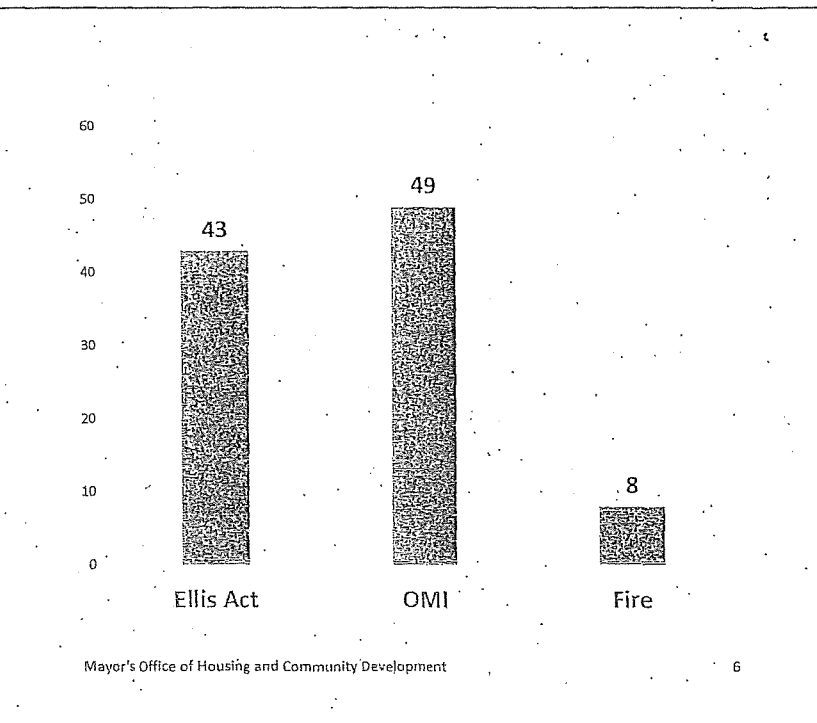
Re-Rental/Re-sale Units
 30 households took occupancy in 26 developments



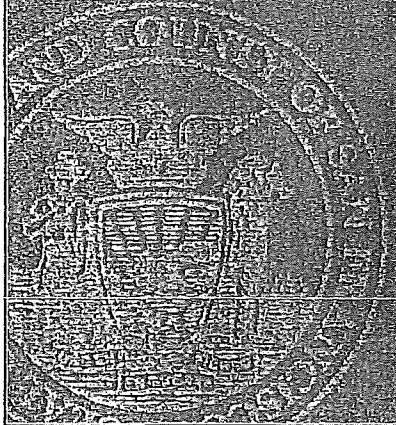
FY16-18 DTHP Occupancy by Displacement Category

100 Households Occupied 53 Buildings

87% Rental Units Occupied vs Ownership (13%)



Expiring Affordability Projects



- HUD funded and LIHTC projects at risk of losing affordability restrictions:
 - 15 buildings totaling 1584 units that will expire from 2021-2029
- Inclusionary projects with expiring affordability restrictions:
 - 45 buildings totaling 514 units that will expire from 2028-2064

Mayor's Office of Housing and Community Development

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DTHP Capacity



Additional capacity to add Category IV

- Of the affordable developments that closed (leased up or sold) in FY16-18:
 - 88 DTHP set aside units were not filled- 56%
- Reasons why additional capacity:
 - While applicants may apply for a certificate, they may not income qualify for opportunities
 - Some developments have specific tenant selection criteria, like senior and TAY housing
 - Most applicants use DTHP to apply for multiple lotteries and ultimately select one unit

Mayor's Office of Housing and Community Development

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Displaced Tenant Housing Preference (DTHP)



Mayor's Office of Housing and Community Development
City and County of San Francisco

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: Jeff Kositsky, Director
Department of Homelessness and Supportive Housing

Sam Dodge, Director
Housing Opportunity, Partnership and Engagement

Barbara Smith, Executive Director
Housing Authority

Kate Hartley, Director
Mayor's Office of Housing and Community Development

FROM: Victor Young, Assistant Clerk 
Rules Committee

DATE: February 8, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Mayor Breed on February 5, 2019:

File No. 190140

Ordinance amending the Administrative Code to expand the Displaced Tenant Preference in City Affordable Housing Programs to cover tenants where the tenant's unit is no longer restricted by a regulatory agreement or other affordable housing restriction and the landlord has increased the rent to be more than 40% of the tenant's gross household income.

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.

c: Emily Cohen, Department of Homelessness and Supportive Housing
Dee Schexnayder, Housing Opportunity, Partnership and Engagement
Christine Keener, Housing Opportunity, Partnership and Engagement
Cindy Gamez, Housing Authority

Dariush Kayhan, Housing Authority
Linda Martin-Mason, Housing Authority
Amy Chan, Mayor's Office of Housing and Community Development

Introduction Form

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

By a Member of the Board of Supervisors or the Mayor

2019 FEB -5 PM 2:10
Time stamp of meeting date

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. 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):

Brown and Peskin

Subject:

Amending the Administrative Code to expand the Displaced Tenant Preference in City Affordable Housing Programs to cover tenants where the tenant's unit is no longer restricted by a regulatory agreement or other affordable housing restriction and the landlord has increased the rent to be more than 40% of the tenant's gross household income.

The text is listed below or attached:

[Empty box for text listing]

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

