

Amendment of the Whole
January 31, 2007.

FILE NO. 061566

ORDINANCE NO.

1 [Limited equity accumulation for membership shares of ROOTS Program Assisted Housing
2 Cooperatives.]

3 **Ordinance amending San Francisco Board of Supervisors Ordinance No. 71-06**
4 **appropriating \$20,000,000 from the General Fund for Affordable Housing projects,**
5 **including \$1,000,000 to the Mayor's Office of Housing (MOH) for the Real Opportunities**
6 **for Tenants (ROOTS) program, by amending the criteria for the ROOTS program to**
7 **require that the Articles of Incorporation or the Bylaws of housing cooperatives**
8 **assisted by ROOTS Program funds, and other applicable documents mandate that**
9 **membership shares of members who cease to be permanent residents be sold at a**
10 **price equaling no greater than a transfer value and clarify that resident housing**
11 **organizations that are assisted by ROOTS must be structured in the form of a**
12 **cooperative; and adopting regulations governing MOH's administration of the ROOTS**
13 **program.**

14 Note: Additions are *single-underline italics Times New Roman*;
15 deletions are *~~strikethrough italics Times New Roman~~*.
16 Board amendment additions are double underlined.
17 Board amendment deletions are ~~strikethrough normal~~.

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

19 Section 1. San Francisco Ordinance 71-06 appropriated \$20,000,000 from the General
20 Fund for various affordable housing programs, including \$1,000,000 to the Mayor's Office of
21 Housing to establish and fund the Real Ownership Opportunities for Tenants project
22 (ROOTS). The ordinance also established mandatory components of the ROOTS program.
23 The ordinance provided that the Controller should not distribute any funds for ROOTS until it
24 certified that the Mayor's Office of Housing or the Board of Supervisors had created ROOTS
25 or an equivalent program that included all of the components articulated in the ordinance.

1 The original Section 5 of the ordinance relating to the components of the ROOTS
2 program read as follows:

3 "The Controller shall not disburse any of the \$1,000,000 appropriated for the Real
4 Ownership Opportunities for Tenants Program and the City shall not expend such funds until
5 the Controller has certified that the Mayor's Office of Housing or the Board of Supervisors has
6 created the Real Ownership Opportunities for Tenants or equivalent program which shall
7 include all of the following components:

8 "(a) Provide a program designed to give grants only to ~~501(e)(3)~~ non-profit
9 organizations specifically chartered to provide permanent affordable housing. The types of
10 organizations eligible for grants shall be clearly defined by the Mayor's Office of Housing or by
11 ordinance by the Board of Supervisors and may either be a Resident Association or an
12 outside organization working with residents.

13 "(b) The program must provide that all projects funded with funds from this
14 Supplemental Appropriation ("Funds") meet the following criteria to be outlined in a program
15 manual established by the Mayor's Office of Housing or in an ordinance approved by the
16 Board of Supervisors:

17 "(1) Tenants benefiting from the grant must be households making no more than
18 80% of the Area Median Income;

19 "(2) All housing purchases supported through the funds shall be purchased under a
20 formula that restricts the price for 99 years with resale restrictions enforced by recorded deed
21 restrictions and a ground lease with a validly formed Community Land Trust that gives the
22 Community Land Trust the right of first refusal to purchase the unit. Upon resale, a new 99
23 year ground lease would be executed with the new buyer, thereby maintaining the affordability
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1 in perpetuity. The resale price may not be greater than the sum of the initial purchase price
2 plus 25% of the appreciation multiplied by the ratio of the initial purchase price divided by
3 appraised value at the time of initial purchase

4 "(3) Eligible projects must split the ownership of the land (which would be held by a
5 non-profit entity chartered to provide affordable housing) and the building with its
6 improvements (held by a residents association).

7 "(4) Eligible projects must demonstrate that tenants representing a majority (60%) of
8 the units in a building must sign "Intent to Purchase" forms to begin the process. Applicants
9 must demonstrate how their cooperative is structured to provide a democratic decision making
10 process.

11 "(5) This fund is intended to fund the creation of permanently affordable cooperatives
12 as defined by applicable local, state and federal laws. All buildings converted from rental to
13 cooperative housing are still subject to state and local condominium laws and restrictions.

14 "(6) Tenants who do not wish to become cooperative owners must be allowed to rent
15 from the cooperative at the price as they did pre-conversion using a lifetime lease.

16 "(7) Once sold, units must be owner-occupied, with certain exceptions made for up
17 to 12 months in any 3 year period. Subletting to roommates is allowable, but rent charged
18 can be no higher than the prorated costs to the owner.

19 "(8) Proposals that would prevent displacement of existing tenants from eviction will
20 be given priority in the selection process.

21 "(c) After the Controller has authorized the disbursement of the Funds to the Mayor's
22 Office of Housing, the Mayor's Office of Housing shall thereafter make an annual report to the
23 Budget and Finance Committee on its expenditure of the Funds."
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1 Section 2. The Mayor's Office of Housing ("MOH") has reviewed the original
2 ordinance, and recommends the following modifications. First, MOH has reviewed the resale
3 formula originally proposed in the ordinance and proposed an alternative resale formula that
4 would be more workable, while achieving the Board of Supervisors' objective to limit the
5 amount of equity that members can earn and be compensated for upon the resale of their
6 cooperative share in order to keep the property affordable for purchase by low income
7 individuals. Second, MOH proposes clarifying that resident housing organizations that are
8 assisted by ROOTS must be structured in the form of a cooperative. Third, MOH has
9 developed Rules and Regulations that it recommends to the Board. Based on the
10 recommendations of the Mayor's Office of Housing, the Board of Supervisors hereby amends
11 the provisions of Ordinance No. 71-06, to read as follows:

12 *~~The Controller shall not disburse any of the \$1,000,000 appropriated for the Real Ownership~~*
13 *~~Opportunities for Tenants Program and the City shall not expend such funds until the~~*
14 *~~Based on work done as of the date of this Ordinance, the Board of Supervisors recommends that the~~*
15 *~~Controller has certified disburse, as appropriate, the \$1,000,0000 appropriated for the Real Ownership Opportunities~~*
16 *~~for Tenants Program and certify~~* that the Mayor's Office of Housing ~~or~~ and the Board of
17 Supervisors ~~has~~ have created the Real Ownership Opportunities for Tenants program~~or~~
18 *~~equivalent program~~* which *shall* include s all of the following components:

19 (a) Provide a program designed to give grants only to ~~501(c)(3)~~ non-profit
20 organizations specifically chartered to provide permanent affordable housing. The types of
21 organizations eligible for grants shall be clearly defined by the Mayor's Office of Housing or by
22 ordinance by the Board of Supervisors and may either be a Resident Association or an
23 outside organization working with residents.

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1 (b) The program must provide that all projects funded with funds from this
2 Supplemental Appropriation ("Funds") meet the following criteria to be outlined in a program
3 manual established by the Mayor's Office of Housing or in an ordinance approved by the
4 Board of Supervisors:

5 (1) At least ~~eighty percent (80%)~~ fifty percent (50%) of tenants residing in the
6 ROOTS-eligible housing at the time of application and benefiting from the grant must be
7 households making no more than 80% of the San Francisco Area Median Income as
8 determined by the United States Department of Housing and Urban Development;

9 (2) All housing purchases supported through the funds shall be purchased under a
10 formula that restricts the *resale price of individual units* with resale restrictions enforced by
11 recorded deed restrictions and a *99-year ground lease of the land* with a validly formed
12 Community Land Trust that gives the Community Land Trust the right of first refusal to
13 purchase *any* unit. Upon resale *of the land*, a new 99 year ground lease would be executed
14 with the new buyer, thereby maintaining the affordability in perpetuity. Upon resale of any unit,
15 resale restrictions must apply to continue to make the unit affordable. The resale price may not be
16 greater than the sum of the initial purchase price plus 25% of the appreciation multiplied by the ratio
17 of the initial purchase price divided by appraised value at the time of initial purchase. The Articles of
18 Incorporation, ~~or~~ the Bylaws of the Community Land Trust, and the occupancy agreement ~~or~~ of a
19 validly formed Limited Equity Housing Cooperative, shall require that the purchase and sale of the
20 stock or membership interests of members of ROOTS assisted housing cooperatives who cease to be
21 permanent residents will be at a price that is no greater than a "Restricted Value" as determined by the
22 applicable Articles, ~~or~~ Bylaws, occupancy agreement, or other applicable documents. The
23 Restricted Value shall not exceed the aggregate of the following:

1 a. the consideration paid for the membership or shares by the first occupant of the
2 subject unit, as shown on the books of the resident housing cooperative ;

3 b. the value, as determined by the Board of Directors of the resident housing
4 cooperative, of any improvements installed at the expense of the member with the prior approval of
5 the Board of directors;

6 c. accumulated interest, or an inflation allowance at a rate which may be based on
7 a cost-of-living index, an income index, or market-interest index. Any increment pursuant to this
8 paragraph shall not exceed a 10 percent annual increase on the consideration paid for the membership
9 or share by the first occupant of the unit involved.

10 (3) Eligible projects must split the ownership of the land (which would be held by a
11 non-profit entity chartered to provide affordable housing) and the building with its
12 improvements (held by a residents ~~association~~ housing cooperative).

13 (4) Eligible projects must demonstrate that tenants representing a majority (60%) of
14 the units in a building must sign "Intent to Purchase" forms to begin the process. Applicants
15 must demonstrate how ~~their~~ the involved housing cooperative is structured to provide a
16 democratic decision making process.

17 (5) This fund is intended to fund the creation of permanently affordable cooperatives
18 as defined by applicable local, state and federal laws. All buildings converted from rental to
19 cooperative housing are still subject to state and local condominium laws and restrictions.

20 (6) Tenants who do not wish to become cooperative owners must be allowed to rent
21 from the cooperative at the price as they did pre-conversion using a lifetime lease.

22 (7) Once sold, units must be owner-occupied, with certain exceptions made for up
23 to 12 months in any 3 year period. Subletting to roommates is allowable, but rent charged
24 can be no higher than the prorated costs to the owner.

1 (8) Proposals that would prevent displacement of existing tenants from eviction will
2 be given priority in the selection process.

3 (c) After the Controller has authorized the disbursement of the Funds to the Mayor's
4 Office of Housing, the Mayor's Office of Housing shall thereafter make an annual report to the
5 Budget and Finance Committee on its expenditure of the Funds.

6 Section 3: Rules and Regulations. The Mayor's Office of Housing has proposed
7 Regulations to govern the ROOTs program consistent with Ordinance 71-06 as amended by
8 this Ordinance No. _____. These Regulations can be found in Clerk of the Board of
9 Supervisors File No. 060311. The Board of Supervisors hereby adopts the Regulations
10 governing the ROOTS program. The Board of Supervisors authorizes the Director of the
11 Mayor's Office of Housing to amend the Regulations from time to time consistent with
12 Ordinance No. 71-06 as amended by this ordinance No. _____. The Director of the Mayor's
13 Office of Housing shall give the public 30 days notice of any proposed amendments to the
14 Regulations by publishing the proposed amendments on its website.
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17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By: _____
20 Susan Cleveland-Knowles
21 Deputy City Attorney
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