


BOARD of SUPERVISORS



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MEMORANDUM

TO: Robert Collins, Executive Director, Rent Board
Kate Hartley, Director, Mayor's Office of Housing and Community
Development

FROM:  Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: November 13, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Ronen on October 23, 2018:

File No. 181030

Ordinance amending the Administrative Code to prevent landlords of rent-controlled units from imposing unlimited rent increases on surviving family members (including non-relatives who have a family-type relationship) following the death of the original occupant or the original occupant's spouse or domestic partner.

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: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development

1 [Administrative Code - Rent Increases on Surviving Family Members]

2
3 **Ordinance amending the Administrative Code to prevent landlords of rent-controlled**
4 **units from imposing unlimited rent increases on surviving family members (including**
5 **non-relatives who have a family-type relationship) following the death of the original**
6 **occupant or the original occupant's spouse or domestic partner.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

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

15 Section 1. Chapter 37 of the Administrative Code is hereby amended by revising
16 Sections 37.2 and 37.3, to read as follows:

17 **SEC. 37.2. DEFINITIONS.**

18 * * * *

19 (x) **Family Member.** A spouse, domestic partner, child, son-in-law, daughter-in-law, sibling,
20 parent, father-in-law, mother-in-law, grandchild, or grandparent of a tenant; or any other person
21 living in the rental unit with the tenant who can prove an emotional and financial commitment and
22 interdependence between such person and the tenant. Although no one factor shall be determinative,
23 the factors to be considered in determining whether such emotional and financial commitment and
24 interdependence exist may include, without limitation, the following: (1) longevity of the relationship;
25 (2) sharing of or relying upon each other for payment of household or family expenses, and/or other
common necessities of life; (3) intermingling of finances as evidenced by, among other things, joint

1 ownership of bank accounts, personal and real property, credit cards, loan obligations, and/or sharing
2 a household budget for purposes of receiving government benefits; (4) jointly engaging in family-type
3 activities, for example by attending family functions, holidays and celebrations, and social and
4 recreational activities; (5) formalizing of legal obligations, intentions, and responsibilities to each
5 other by such means as executing wills naming each other as executor and/or beneficiary, conferring
6 upon each other a power of attorney and/or authority to make health care decisions each for the other,
7 entering into a personal relationship contract, and/or serving as a representative payee for purposes of
8 public benefits; (6) holding themselves out as family members to other family members, friends,
9 members of the community or religious institutions, or society in general, through their words or
10 actions; (7) regularly performing family functions, such as caring for each other or each other's
11 extended family members, and/or relying upon each other for daily family services; (8) engaging in any
12 other pattern of behavior, agreement, or other action that evidences the intention of creating a long-
13 term, emotionally committed relationship. In no event shall the existence of a sexual relationship
14 between such persons be required or considered as evidence of emotional and financial commitment
15 and interdependence.

16
17 **SEC. 37.3. RENT LIMITATIONS.**

18 * * * *

19 (d) **Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).**

20 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
21 and regardless of whether otherwise provided under Chapter 37:

22 * * * *

23 (2) **Conditions for Establishing the Initial Rental Rate Upon Sublet or**
24 **Assignment.** Except as identified in this §subsection 37.3(d)(2), nothing in this §subsection or
25 any other provision of law of the City and County of San Francisco shall be construed to

1 preclude express establishment in a lease or rental agreement of the rental rates to be
2 applicable in the event the rental unit subject thereto is sublet, and nothing in this § subsection
3 shall be construed to impair the obligations of contracts entered into prior to January 1, 1996,
4 subject to the following:

5 (A) Where the original occupant or occupants who took possession of the
6 dwelling or unit pursuant to the rental agreement with the owner no longer permanently reside
7 there, an owner may increase the rent by any amount allowed by this § subsection to a lawful
8 sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996;
9 provided, commencing November 7, 2018, that the lawful sublessee or assignee is not a surviving
10 family member (as defined in Section 37.2(x)) of a deceased original occupant or their deceased spouse
11 or domestic partner, and that the surviving family member was not permanently residing in the unit
12 with the deceased original occupant (or deceased spouse or domestic partner, as applicable) for two
13 years or more immediately prior to that person's death. However, such a rent increase shall not be
14 permitted while:

15 (i) The dwelling or unit has been cited in an inspection report by the
16 appropriate governmental agency as containing serious health, safety, fire, or building code
17 violations, as defined by Section 17920.3 of the California Health and Safety Code, excluding
18 any violation caused by a disaster; and,

19 (ii) The citation was issued at least 60 days prior to the date of the
20 vacancy: and,

21 (iii) The cited violation had not been abated when the prior tenant
22 vacated and had remained unabated for 60 days or for a longer period of time. However, the
23 60-day time period may be extended by the appropriate governmental agency that issued the
24 citation.
25

1 (B) This §subsection 37.3(d)(2) shall not apply to partial changes in
2 occupancy of a dwelling or unit where one or more of the occupants of the premises, pursuant
3 to the agreement with the owner provided for above (37.3(d)(2)), remains an occupant in
4 lawful possession of the dwellings or unit; or where a lawful sublessee or assignee who
5 resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling
6 or unit. This subsection 37.3(d)(2) also shall not apply to partial changes in occupancy on or after
7 November 7, 2018 where the lawful sublessee or assignee is a surviving family member (as defined in
8 Section 37.2(x)) of a deceased original occupant or their deceased spouse or domestic partner, if the
9 surviving family member was permanently residing in the unit with the deceased original occupant (or
10 deceased spouse or domestic partner, as applicable) for two years or more immediately prior to that
11 person's death. Nothing contained in this §subsection 37.3(d)(2) shall be construed to enlarge
12 or diminish an owner's right to withhold consent to a sublease or assignment.

13 * * * *

14
15 Section 2. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the "Note" that appears under
20 the official title of the ordinance.

21
22 Section 3. Effective and Operative Dates.

23 This ordinance is conditioned on the passage of California Proposition 10 on the
24 November 6, 2018 ballot. The ordinance shall become effective 30 days after enactment,
25 assuming the voters adopt Proposition 10. Enactment occurs when the Mayor signs the

1 ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within
2 ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the
3 ordinance. If enacted, the ordinance shall be retroactive to the effective date of Proposition
4 10.

5
6 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
7 of this ordinance, or any application thereof to any person or circumstance, is held to be
8 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
9 shall not affect the validity of the remaining portions or applications of the ordinance. The
10 Board of Supervisors hereby declares that it would have passed this ordinance and each and
11 every section, subsection, sentence, clause, phrase, and word not declared invalid or
12 unconstitutional without regard to whether any other portion of this ordinance or application
13 thereof would be subsequently declared invalid or unconstitutional.

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

17 By: 
18 MANU PRADHAN
19 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Rent Increases on Surviving Family Members]

Ordinance amending the Administrative Code to prevent landlords of rent-controlled units from imposing unlimited rent increases on surviving family members (including non-relatives who have a family-type relationship) following the death of the original occupant or the original occupant's spouse or domestic partner.

Existing Law

Consistent with the Costa-Hawkins Rental Housing Act, if all of the original tenants of a rental unit have permanently vacated the unit and the only remaining occupants are subtenants or assignees who moved in on or after January 1, 1996, the landlord may be entitled to increase the rent to market rate.

Amendments to Current Law

The proposed ordinance would prevent landlords from increasing the rent to market rate when the unit has become vacated by the death of the original tenant (or by the death of the original tenant's spouse or domestic partner) on or after November 7, 2018, if one or more of the subtenants or assignees remaining in the unit are surviving family members of the deceased tenant, spouse, or domestic partner; and if the surviving family member had been living in the unit with that deceased person for at least two years immediately prior to that person's death.

For purposes of the ordinance, the term "family member" would mean a spouse, domestic partner, child, son-in-law, daughter-in-law, sibling, parent, father-in-law, mother-in-law, grandchild, or grandparent of the tenant; or any other person living in the rental unit with the tenant who can prove an emotional and financial commitment and interdependence between themselves and the tenant. The ordinance lists a series of non-exclusive factors that would be relevant to determining whether or not there was an emotional and financial commitment and interdependence between the person and the tenant. In no event would the existence of a sexual relationship be required or considered as evidence of emotional and financial commitment and interdependence.

Background Information

The proposed ordinance cannot take effect unless the voters adopt California Proposition 10, which is on the November 6, 2018 ballot and which would repeal the Costa-Hawkins Rental Housing Act.