File No. 170349 Committee Item No. 4
Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Land Use and Transportation Committee **Date** June 26, 2017

Board of Supervisors Meeting **Date** JULY 11, 2017

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Completed by: Erica Major **Date** June 22, 2017
Completed by: Alisa Somera **Date** June 27, 2017

[Administrative Code - Owner Move-In Reporting Requirements]

Ordinance amending the Administrative Code regarding ~~to require a landlord seeking to recover possession of a rental unit based on an~~ owner move-in and relative move-in ("OMI") evictions ~~or relative move-in ("RMI")~~ to 1) require a landlord seeking to recover possession of a unit for an OMI to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord's relative for at least 36 continuous months; 2) require a landlord ~~seeking to recover possession of a rental unit based on an OMI or RMI~~ to provide the tenant with a form prepared by the Rent Board to be used to advise the Rent Board of any change in address; 3) clarify the evidentiary standard for finding that an OMI was not performed in good faith; 4) require a landlord to file ~~annual~~ documentation with the Rent Board regarding the status of an OMI, with a penalty for not filing such documentation, and requiring the Rent Board to transmit a random sampling of such documentation to the District Attorney~~for three years after an OMI or RMI showing whether the landlord or relative is occupying the unit as his or her principal place of residence~~; 5) extend from three to five years the time period after an OMI during which a landlord who intends to re-rent the unit must first offer the unit to the displaced tenant; 6) provide that a landlord who charges above the maximum allowable rent during the five-year period after an OMI is guilty of a misdemeanor; 7) require the Rent Board to annually notify the unit occupant of the maximum rent for the unit for five ~~three~~ years after an OMI ~~or RMI~~, and authorize the occupant to sue for three times any excess rent charged; ~~and~~ 8) extend the statute of limitations for wrongful eviction claims based on an unlawful OMI ~~or RMI~~ from one year to five ~~three~~ years; 9)

authorize interested non-profit organizations to sue for wrongful eviction and collection of excess rent following OMIs; and 10) making clarifying changes.

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. The Administrative Code is hereby amended by revising Sections 37.6, 37.9, ~~and~~ 37.9B, 37.10A, and 37.11A, to read as follows:

SEC. 37.6. POWERS AND DUTIES.

In addition to other powers and duties set forth in this Chapter, and in addition to powers under the Charter and under other City Codes, including powers and duties under Administrative Code Chapter 49 ("Interest Rates on Security Deposits"), the Rent Board shall have the power to:

* * * *

(k) ~~Compile a list at random, on~~On a monthly basis starting January 1, 2018, compile copies at random of 10% ~~percent of the~~ all statements of occupancy filed with the Rent Board pursuant to Section 37.9(a)(8)(vii), and compile a list of all units for which the required statement of occupancy was not filed with the Rent Board~~notices to vacate filed pursuant to Section 37.9(c) which state on the notice or in any additional written document any causes under Section 37.9(a)(8) as the reason for eviction~~. Said copies and said list shall be

transmitted to the District Attorney on a monthly basis for investigation ~~pursuant to Section 37.9(c)~~. In cases where the District Attorney determines that Section 37.9(a)(8) has been violated, the District Attorney shall take whatever action he or she deems appropriate under this Chapter 37 or under State law.

* * * *

SEC. 37.9. EVICTIONS.

Notwithstanding Section 37.3, this Section 37.9 shall apply as of August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

(a) A landlord shall not endeavor to recover possession of a rental unit unless:

* * * *

(8) The landlord seeks to recover possession in good faith, without ulterior reasons and with honest intent:

(i) For the landlord's use or occupancy as his or her principal residence for a period of at least 36 continuous months;

(ii) For the use or occupancy of the landlord's grandparents, grandchildren, parents, children, brother or sister, or the landlord's spouse, or the spouses of such relations, as their principal place of residency for a period of at least 36 months, in the same building in which the landlord resides as his or her principal place of residency, or in a building in which the landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i). For purposes of this Section 37.9(a)(8)(ii), the term "spouse" shall include domestic partners as defined in ~~*San Francisco*~~ Administrative Code Sections 62.1 through 62.8.

* * * *

(v) Commencing January 1, 2018, the landlord shall attach to the ~~The~~ *notice to vacate* ~~shall include~~ *a form prepared by the Rent Board that the tenant can use to keep the Rent Board*

apprised of any future change in address, and shall include in the notice *a declaration executed by the landlord under penalty of perjury stating that the landlord seeks to recover possession of the unit in good faith, without ulterior reasons and with honest intent, for use or occupancy as the principal residence of the landlord or the landlord's relative (identified by name and relation to the landlord), for a period of at least 36 continuous months, as set forth in subsections 37.9(a)(8)(i) and (ii).* ~~The landlord shall file the notice with the Rent Board pursuant to Section 37.9(c).~~ *Evidence* ~~of any of the following shall create a rebuttable presumption~~ *that the landlord has not acted in good faith* may include, but is not limited to, any of the following~~, unless and until evidence is introduced that would support a finding that the landlord has acted in good faith, in which case the trier of fact shall determine the existence or nonexistence of the presumed fact from the evidence and without regard to the presumption~~: *(1) the landlord has* failed ~~refused~~ *to file the notice* to vacate *with the Rent Board* as required by Section 37.9(c), *(2)* ~~*It shall be rebuttably presumed that the landlord has not acted in good faith if*~~ the landlord or relative for whom the tenant was evicted *did* ~~*does*~~ not move into the rental unit within three months *after the landlord recovered possession* and then occupy said unit as that person's principal residence for a minimum of 36 consecutive months~~ after moving in, or~~ *(3)* the landlord or relative for whom the tenant was evicted lacks a legitimate, bona fide reason for not moving into the unit within three months after the recovery of possession and/or then occupying said unit as that person's principal residence for a minimum of 36 consecutive months, (4) the landlord did not file a statement of occupancy with the Rent Board as required by Section 37.9(a)(8)(vii), (5) *the landlord* violated Section 37.9B by *rent*inged *the unit to a new tenant at a rent greater than that which would have been the rent had the tenant who had been required to vacate remained in continuous occupancy and the rental unit remained subject to this Chapter 37* ~~as provided in Section 37.9B~~, and (6) such other factors as a court or the Rent Board may deem relevant. Nothing in this Section

37.9(a)(8)(v) is intended to alter or diminish any other right to relief that a tenant may have based on a landlord's failure to comply with this Chapter 37.

* * * *

(vii) A landlord who has recovered possession of a unit pursuant to Section 37.9(a)(8) on or after January 1, 2018 *must complete a statement of occupancy under penalty of perjury on a form to be prepared by the Rent Board* that discloses whether the landlord has recovered possession of the unit. The landlord shall file the statement of occupancy with the Rent Board within 90 days after the date of service, and shall file an updated statement of occupancy every 90 days thereafter, unless the statement of occupancy discloses that the landlord is no longer endeavoring to recover possession of the unit, in which case no further statements of occupancy need be filed. If the statement of occupancy discloses that the landlord has already recovered possession of the unit, the landlord shall file updated statements of occupancy once a year for five years, no later than 12 months, 24 months, 36 months, 48 months, and 60 months after the recovery of possession of the unit. Each statement of occupancy filed after the landlord has recovered possession of the unit shall disclose the date of recovery of possession, whether the landlord or relative for whom the tenant was evicted is occupying the unit as that person's principal residence with at least two forms of supporting documentation, the date such occupancy commenced (or alternatively, the reasons why occupancy has not yet commenced), the rent charged for the unit if any, and such other information and documentation as the Rent Board may require in order to effectuate the purposes of this Section 37.9(a)(8). The Rent Board shall make all reasonable efforts to send the displaced tenant a copy of each statement of occupancy within 30 days of the date of filing, or a notice that the landlord did not file a statement of occupancy if no statement of occupancy was filed. In addition, the Rent Board shall impose an administrative penalty on any landlord who fails to comply with this subsection (a)(8)(vii), in the amount of $250 for the

first violation, $500 for the second violation, and $1,000 for every subsequent violation. The procedure for the imposition, enforcement, collection, and administrative review of the administrative penalty shall be governed by Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," which is hereby incorporated in its entirety.~~The landlord shall file the statement of occupancy with the Rent Board three months after recovery of possession of the unit, and shall file updated statements of occupancy 12 months, 24 months, and 36 months after the recovery of possession of the unit. The statement, including the updates, shall identify whether the unit is (1) occupied as the principal place of residence of the landlord or the relative (identified by name and relation to the landlord) for whom the tenant was evicted, (2) occupied by another person, or (3) unoccupied. If the unit is occupied by a person other than the landlord or relative for whom the tenant was evicted, the statement of occupancy shall also disclose the current rent for the unit; and the Rent Board shall make all reasonable efforts to send the displaced tenant a copy of the statement of occupancy within 30 days of the date of filing, or a notice that the landlord did not file a statement of occupancy if no statement of occupancy was filed. If the unit is occupied by the landlord or the relative for whom the tenant was evicted, the landlord shall also simultaneously file with the Rent Board at least two forms of documentation in which the unit is listed as the landlord or relative's place of residence. Acceptable forms of this documentation shall include at least two of the following categories: (1) current utility services contract or utility billing records from within 45 days of the date of filing; (2) current motor vehicle registration and insurance policy for the vehicle; (3) current homeowner's or renter's insurance policy; (4) correspondence from within 45 days of the date of filing from any government agency, including federal, state, and local taxing authorities; (5) current voter registration; (6) current driver's license; (7) proof that the individual has obtained a homeowner's exemption from property taxes for the unit; or (8) any other credible~~

~~documentary evidence showing that the landlord or relative actually occupies the rental unit as his or her principal place of residence. Evidence that the landlord did not timely file a statement of occupancy and supporting documentation with the Rent Board shall create a rebuttable presumption that the landlord did not recover possession of the unit in good faith, unless and until evidence is introduced that would support a finding that the landlord did recover possession of the unit in good faith, in which case the trier of fact shall determine the existence or nonexistence of the presumed fact from the evidence and without regard to the presumption.~~

(~~vii~~*viii*) If any provision or clause of this ~~*amendment to*~~ Section 37.9(a)(8) or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other chapter provisions, and clauses of this Chapter are held to be severable; or

* * * *

(c) A landlord shall not endeavor to recover possession of a rental unit unless at least one of the grounds enumerated in Section 37.9(a) or (b) above is (1) the landlord's dominant motive for recovering possession and (2) unless the landlord informs the tenant in writing on or before the date upon which notice to vacate is given of the grounds under which possession is sought, and for notices to vacate under Sections 37.9(a)(8), (9), (10), (11), and (14), state in the notice to vacate the lawful rent for the unit at the time the notice is issued, before endeavoring to recover possession. The Board shall prepare a written form that (1) states that a tenant's failure to timely act in response to a notice to vacate may result in a lawsuit by the landlord to evict the tenant, and that advice regarding the notice to vacate is available from the Board; and (2) includes information provided by the Mayor's Office of Housing and Community Development regarding eligibility for affordable housing programs. The Board shall prepare the form in English, Chinese, Spanish, Vietnamese, Tagalog, and

Russian and make the form available to the public on its website and in its office. A landlord shall attach a copy of the form that is in the primary language of the tenant to a notice to vacate before serving the notice, except that if the tenant's primary language is not English, Chinese, Spanish, Vietnamese, Tagalog, or Russian, the landlord shall attach a copy of the form that is in English to the notice. A copy of all notices to vacate except three-day notices to ~~vacate or~~ pay rent or quit and a copy of any additional written documents informing the tenant of the grounds under which possession is sought shall be filed with the Board within 10 days following service of the notice to vacate. ~~The District Attorney shall determine whether the units set forth on the list compiled in accordance with Section 37.6(k) are still being occupied by the tenant who succeeded the tenant upon whom the notice was served. In cases where the District Attorney determines that Section 37.9(a)(8) has been violated, the District Attorney shall take whatever action he deems appropriate under this Chapter or under State law.~~ In any action to recover possession of the rental unit under Section 37.9, the landlord must plead and prove that at least one of the grounds enumerated in Section 37.9(a) or (b) and also stated in the notice to vacate is the dominant motive for recovering possession. Tenants may rebut the allegation that any of the grounds stated in the notice to vacate is the dominant motive.

* * * *

(e) It shall be unlawful for a landlord or any other person who willfully assists the landlord to endeavor to recover possession or to evict a tenant except as provided in Section 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in

Section 37.10A. Any waiver by a tenant of rights under this Chapter 37 ~~except as provided in Section 37.10A(g),~~ shall be void as contrary to public policy.

(f) Whenever a landlord wrongfully endeavors to recover possession or recovers possession of a rental unit in violation of Sections 37.9 and/or 37.10*A* as enacted herein, the tenant or *Rent* Board may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages, (including damages for mental or emotional distress *as specified below*), and whatever other relief the court deems appropriate. *If the landlord has recovered possession pursuant to Section 37.9(a)(8), such action shall be brought no later than* five ~~three~~ *years after* (1) *the date* the landlord files the first statement of occupancy with the Rent Board under Section 37.9(a)(8)(vii) or (2) three months after the landlord recovers possession, whichever is earlier~~of recovery of possession.~~ In the case of an award of damages for mental or emotional distress, said award shall only be trebled if the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard of Section 37.9 or 37.10A herein. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court. The remedy available under this Section 37.9(f) shall be in addition to any other existing remedies which may be available to the tenant or the Rent Board.

* * * *

SEC. 37.9B. TENANT RIGHTS IN EVICTIONS UNDER SECTION 37.9(a)(8).

(a) Any rental unit which a tenant vacates after receiving a notice to quit based on Section 37.9(a)(8), and which is subsequently no longer occupied as a principal residence by the landlord or the landlord's grandparent, parent, child, grandchild, brother, sister, or the landlord's spouse, or the spouses of such relations must, if offered for rent during the five-~~three~~-year period following service of the notice to quit under Section 37.9(a)(8), be rented in

good faith at a rent not greater than *th*at which would have been the rent had the tenant who had been required to vacate remained in continuous occupancy and the rental unit remained subject to this Chapter *37*. If it is asserted that a rent increase could have taken place during the occupancy of the rental unit by the landlord if the rental unit had been subjected to this Chapter, the landlord shall bear the burden of proving that the rent could have been legally increased during the period. If it is asserted that the increase is based in whole or in part upon any grounds other than that set forth in Section 37.3(a)(1), the landlord must petition the Rent Board pursuant to the procedures of this Chapter. Displaced tenants shall be entitled to participate in and present evidence at any hearing held on such a petition. Tenants displaced pursuant to Section 37.9(a)(8) shall make all reasonable efforts to keep the Rent Board apprised of their current address. The Rent Board shall provide notice of any proceedings before the Rent Board to the displaced tenant at the last address provided by the tenant. No increase shall be allowed on account of any expense incurred in connection with the displacement of the tenant.

(b) (1) For notices to vacate served before January 1, 2018, any~~Any~~ landlord who, within three years of the date of service of the notice to quit, offers for rent or lease any unit in which the possession was recovered pursuant to Section 37.9(a)(8) shall first offer the unit for rent or lease to the tenants displaced, in the same manner as provided for in Sections 37.9A(c) and (d).

(2) For notices to vacate served on or after January 1, 2018, any landlord who, within five years of the date of service of the notice to quit, offers for rent or lease any unit in which the possession was recovered pursuant to Section 37.9(a)(8) shall first offer the unit for rent or lease to the tenants displaced, by mailing a written offer to the address that the tenant has provided to the landlord. If the tenant has not provided the landlord a mailing address, the landlord shall mail the offer to the address on file with the Rent Board, and if the Rent

Board does not have an address on file, then to the unit from which the tenant was displaced and to any other physical or electronic address of the tenant of which the landlord has actual knowledge. The landlord shall file a copy of the offer with the Rent Board within 15 days of the offer. The tenant shall have 30 days from receipt of the offer to notify the landlord of acceptance or rejection of the offer and, if accepted, shall reoccupy the unit within 45 days of receipt of the offer.

* * * *

(e) Within 30 days after the effective date of a written notice to vacate that is filed with the *Rent* Board under Section 37.9B(c) the *Rent* Board shall record a notice of constraints with the County Recorder identifying each unit on the property that is the subject of the Section 37.9B(c) notice to vacate, stating the nature and dates of applicable restrictions under Sections 37.9(a)(8) and 37.9B. For notices to vacate filed under Section 37.9B(c) on or after January 1, 2018, the~~The~~ *Rent Board shall also send a notice to the unit that states the maximum rent for that unit under Sections 37.9(a)(8) and 37.9B, and shall send an updated notice to the unit 12 months, 24 months,* and *36 months*, 48 months, and 60 months *thereafter, or within 30 days of such date.* If a notice of constraints is recorded but the tenant does not vacate the unit, the landlord may apply to the *Rent* Board for a rescission of the recorded notice of constraints. *The Rent Board shall not be required to send any further notices to the unit pursuant to this subsection (e) if the constraints on the unit are rescinded.*

SEC. 37.10A. MISDEMEANORS, AND OTHER ENFORCEMENT PROVISIONS.

* * * *

~~(c) It shall be unlawful for a landlord or for any person who willfully assists a landlord to request that a tenant move from a rental unit or to threaten to recover possession of a rental unit, either verbally or in writing, unless:~~

~~(1) The landlord in good faith intends to recover said unit under one of the grounds enumerated in Section 37.9(a) or (b); and~~

~~(2) Within five days of any such request or threat the landlord serves the tenant with a written notice stating the particular ground under Section 37.9(a) or (b) that is the basis for the landlord's intended recovery of possession of the unit.~~

(c)~~(d)~~ It shall be unlawful for a landlord or for any person who willfully assists a landlord to recover possession of a rental unit unless, prior to recovery of possession of the unit:

~~(1) The landlord files a copy of the written notice required under Section 37.10A(c) with the Board together with any preceding warning or threat to recover possession, unless the particular ground for recovery is non-payment of rent; and~~

~~(2) The~~ the landlord satisfies all requirements for recovery of the unit under Section 37.9(a) or (b).

(d)~~(e)~~ In any criminal or civil proceeding based on a violation of Section ~~37.10A(c) or~~ 37.10A(c)~~(d)~~, the landlord's failure to use a recovered unit for the Section 37.9(a) or (b) ground stated verbally or in writing to the tenant from whom the unit was recovered shall give rise to a presumption that the landlord did not have a good faith intention to recover the unit for the stated ground.

(e)~~(f)~~ If possession of a rental unit is recovered as the result of any written or verbal statement to the tenant that the landlord intends to recover the unit under one of the grounds enumerated in Section 37.9(a) or (b), the unit shall be subject to all restrictions set forth under this Chapter on units recovered for such stated purpose regardless of any agreement made between the landlord or the landlord's agent and the tenant who vacated the recovered unit. Any unit vacated by a tenant within 120 days after receiving any written or verbal statement from the landlord stating that the landlord intends to recover the unit under Section 37.9(a) or

(b), shall be rebuttably presumed to have been recovered by the landlord pursuant to the grounds identified in that written or verbal statement.

~~(g) Except as provided in this subsection, it shall be unlawful for a landlord, or for any person who willfully assists a landlord, including the landlord's attorney or legal representative, to seek or obtain a tenant's agreement not to cooperate with any investigation or proceeding by any administrative or law enforcement or other governmental agency under this Chapter, or to otherwise seek or obtain a tenant's waiver of rights under this Chapter. Any waiver of rights by a tenant under this Chapter shall be void as contrary to public policy unless the tenant is represented by independent counsel and the waiver is approved in a Court-supervised settlement agreement, or by a retired judge of the California Superior Court sitting as a mediator or arbitrator by mutual agreement of the tenant represented by independent counsel and the landlord. Any settlement agreement shall identify the judge, mediator, or arbitrator reviewing the settlement, all counsel representing the parties, and any other information as required by the Board. The landlord shall file a signed copy of the settlement agreement with the Board within ten days of execution. Unless otherwise required by the Board, the copy of the agreement filed with the Board shall redact the amount of payments to be made to tenants.~~

(f)~~(h)~~ It shall be unlawful for a landlord to knowingly fail to disclose in writing to the buyer, prior to entering into a contract for the sale of any property consisting of two or more residential units, the specific legal ground(s) for the termination of the tenancy of each residential unit to be delivered vacant at the close of escrow.

(g)~~(i)~~ It shall be unlawful for a landlord/owner, when offering a property for sale in the City and County of San Francisco that includes two or more residential units, to knowingly fail to disclose in writing to any prospective purchaser:

(1) The specific legal ground(s) for the termination of the tenancy of each residential unit to be delivered vacant at the close of escrow; and,

(2) Whether the unit was occupied by an elderly or disabled tenant at the time the tenancy was terminated. For purposes of this Ssection 37.10A(g)~~(i)~~, "elderly" means a tenant defined as elderly by ~~San Francisco~~ Administrative Code Ssections 37.9(i)(1)(A), 37.9A(e)(1)(C), 37.9A(e)(2)(D), or 37.9A(e)(3)(C), or a tenant defined as "senior" by ~~San Francisco~~ Subdivision Code Ssection 1359(d). For purposes of this ~~s~~Section 37.10A(g)~~(i)~~, "disabled" means a tenant defined as disabled by ~~San Francisco~~ Administrative Code Ssections 37.9(i)(1)(B)(i), 37.9A(e)(1)(C), 37.9A(e)(2)(D), or 37.9A(e)(3)(C), or by ~~San Francisco~~ Subdivision Code Ssection 1359(d).

Any disclosure required by this ~~s~~Subsection (g)~~(i)~~ that is made on a flier or other document describing the property which is made available to prospective purchasers at each open house and at any tour through the property will constitute compliance with the disclosure requirements of this ~~s~~Subsection (g)~~(i)~~.

(h) It shall be unlawful for any landlord, within five years after service of the notice to quit under Section 37.9(a)(8), to charge a rent for the unit that exceeds the maximum rent for the unit as provided in Section 37.9B(a), unless the notice of constraints on the unit has been rescinded. Each month or portion thereof that the landlord charges an excessive rent in violation of Section 37.9B(a) shall constitute a separate violation.

(i)~~(j)~~ Any person who violates Section 37.10A(a), (b), ~~(c), (d)~~(c), ~~(g) or (h)~~(f), or (h) is guilty of a misdemeanor and shall be punished by a mandatory fine of ~~one thousand dollars~~ ~~($1,000)~~, and in addition to such fine may be punished by imprisonment in the County Jail for a period of not more than six months. Each violation shall constitute a separate offense.

SEC. 37.11A. CIVIL ACTIONS.

(a) Whenever a landlord charges a tenant a rent which exceeds the limitations set forth in this Chapter, retaliates against a tenant for the exercise of any rights under this Chapter, or attempts to prevent a tenant from acquiring any rights under this Chapter 37, the tenant may institute a civil proceeding for injunctive relief and/or money damages, and in cases where the landlord has charged an excessive rent in violation of Section 37.9B(a), injunctive relief and/or money damages of not less than three times the amount of excess rent collected; provided, however, that any monetary award for rent overpayments resulting from a rent increase which is null and void pursuant to Section 37.3(b)(5) shall be limited to a refund of rent overpayments made during the three-year period preceding the month of filing of the action, plus the period between the month of filing and the date of the court's order. In any case, calculation of rent overpayments and re-setting of the lawful base rent shall be based on a determination of the validity of all rent increases imposed since April 1, 1982, in accordance with Sections 37.3(b)(5) and 37.3(a)(2) above.

(b) Any organization with tax exempt status under 26 United States Code Section 501(c)(3) or 501(c)(4) that has a primary mission of protecting the rights of tenants in San Francisco may bring a civil action for injunctive relief and/or damages against a landlord who has wrongfully endeavored to recover, or has recovered, possession of a rental unit in violation of Section 37.9(a)(8), or who has collected excess rent in violation of Section 37.9B(a). ~~An action shall be brought no later than five years after (1) the date the landlord files the first statement of occupancy with the Rent Board under Section 37.9(a)(8)(vii) or (2) three months after the landlord recovers possession, whichever is earlier.~~ Such action shall be filed within three years after an affected tenant knew, or through the exercise of reasonable diligence should have known, of the facts constituting the violation. However, before bringing any action under this Section 37.11A(b), the organization shall first provide 30 days' written

notice of its intent to initiate civil proceedings by serving a draft complaint on the City Attorney's Office and on any known address(es) of the affected tenant(s), and may bring the action under this Section 37.11A(b) only if neither the City Attorney's Office nor the tenant(s) have initiated civil proceedings by the end of the 30 day period. Any monetary award for rent overpayments shall be for two times any excess amounts of rent charged, as well as any other sums reasonably expended to investigate and prosecute the claim, and shall be limited to the three-year period preceding the month of filing of the action; plus the period between the month of filing and the date of the court's order.

(c) The prevailing party in any civil action brought under this Section 37.11A shall be entitled to recover reasonable attorneys' fees and costs. The remedy available under this Section 37.11A shall be in addition to any other existing remedies which may be available ~~to the tenant~~.

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

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

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

By: _____
MANU PRADHAN
Deputy City Attorney

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FILE NO. 170349

REVISED LEGISLATIVE DIGEST

(Amended in Board, 6/27/2017)

[Administrative Code - Owner Move-In Reporting Requirements]

Ordinance amending the Administrative Code regarding owner move-in and relative move-in ("OMI") evictions to require a landlord seeking to recover possession of a unit for an OMI to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord's relative for at least 36 continuous months; require a landlord to provide the tenant with a form prepared by the Rent Board to be used to advise the Rent Board of any change in address; clarify the evidentiary standard for finding that an OMI was not performed in good faith; require a landlord to file documentation with the Rent Board regarding the status of an OMI, with a penalty for not filing such documentation, and requiring the Rent Board to transmit a random sampling of such documentation to the District Attorney; extend from three to five years the time period after an OMI during which a landlord who intends to re-rent the unit must first offer the unit to the displaced tenant; provide that a landlord who charges above the maximum allowable rent during the five-year period after an OMI is guilty of a misdemeanor; require the Rent Board to annually notify the unit occupant of the maximum rent for the unit for five years after an OMI, and authorize the occupant to sue for three times any excess rent charged; extend the statute of limitations for wrongful eviction claims based on an unlawful OMI from one year to five years; and making clarifying changes.

Existing Law

The City's Residential Rent Stabilization and Arbitration Ordinance allows a landlord to perform an owner move-in ("OMI") to recover possession of a rental unit if the landlord has a good faith intent to occupy the rental unit as his or her principal residence for a period of at least 36 continuous months. (A landlord can also perform an OMI on behalf of a relative, under certain conditions.)

A landlord formally initiates the OMI eviction process by serving the tenant a notice to vacate, and must then file a copy of the notice to vacate with the Rent Board. The Rent Board is required on a monthly basis to compile a list at random of 10 percent of all OMI notices filed, and transmit that list to the District Attorney for investigation. The Rent Board must also record a notice of constraints on a unit whose occupant received an OMI notice, within 30 days of the notice's effective date. If the tenant vacates the unit and the landlord then offers the unit for rent during the three-year period after service of the OMI notice, the landlord must first offer the unit to the original tenant. The landlord may not charge the original tenant (or any other tenant) a rent higher than what the original tenant would have been required to pay had the original tenant remained in the unit, for a period of five years after service of the notice. See Admin. Code § 37.3(f)(1).

If the OMI leads to an unlawful detainer action, it falls to a court to determine issues such as whether the landlord served the notice to vacate, and whether the landlord satisfies the underlying requirement of having a good faith intent to occupy the unit as the landlord or the relative's principal residence for a period of 36 continuous months.

Landlords are not currently required to report to the Rent Board regarding the use of a rental unit following an OMI. A tenant who has been evicted due to an OMI may sue for wrongful eviction if the tenant comes to believe that the eviction was unlawful. A wrongful eviction action is subject to a one-year statute of limitations.

Amendments to Current Law

The proposed ordinance would require a landlord to attach to an OMI notice a form prepared by the Rent Board that the tenant can use to advise the Rent Board of any change in address, and to include in the notice a declaration executed by the landlord under penalty of perjury stating that the landlord intends to recover possession of the unit in good faith for use as the principal residence of the landlord or the landlord's relative for a period of at least 36 continuous months. The ordinance would also (1) clarify that existing law limits the initial rent that a landlord may charge a new tenant for a period of five years after service of an OMI notice; and (2) extend from three years to five years the time period during which a landlord who intends to re-rent the unit must first offer the unit to the displaced tenant.

The proposed ordinance would create a reporting obligation by requiring a landlord to file a "statement of occupancy" under penalty of perjury with the Rent Board. Initially, the landlord would only have to disclose whether he or she was still endeavoring to recover possession of the unit. The first disclosure would be due within 90 days after service of the OMI notice and an update would be due every 90 days thereafter. Once a landlord reported that he or she had recovered possession of the unit, updates would be due only once a year, but would have to include additional information regarding the date of recovery of possession, the date of move-in (or reasons for not moving in), the rent charged if any, and such other information and documentation as required by the Rent Board. The Rent Board would be required to send a copy of the statement of occupancy to the displaced tenant; transmit a random sampling of statements of occupancy to the District Attorney on a monthly basis; and assess a $250 administrative penalty on any landlord for a first failure to file a required statement of occupancy, a $500 administrative penalfy for a second failure, and a $1,000 administrative penalty for every subsequent failure. The Rent Board would also be required to send the new unit occupant an annual notice stating the maximum rent for the unit, for five years after the OMI.

The proposed ordinance would also clarify what kind of evidence is relevant towards proving that the landlord did not perform the OMI in good faith. Such evidence could include, but would not be limited to, the following: (1) the landlord failed to file the OMI notice with the Rent Board; (2) the landlord or relative did not move into the unit within three months after the

recovery of possession and then occupy the unit as their principal residence for at least 36 continuous months; (3) the landlord or relative lack a legitimate, bona fide reason for not moving in within three months after recovery of possession and/or maintaining a principal residence in the unit for 36 continuous months; (4) the landlord did not file a statement of occupancy with the Rent Board; (5) the landlord charged excessive rent during the five-year period following the service of the OMI notice; or (6) such other factors as a court or the Rent Board may deem relevant.

The proposed ordinance would extend the statute of limitations for wrongful eviction actions following an OMI to five years after either (1) the date the landlord files the first statement of occupancy with the Rent Board or (2) three months after the landlord recovers possession, whichever is earlier.

The proposed ordinance would strengthen existing law regarding misdemeanor prosecutions by expressly authorizing the District Attorney to sue landlords who charged an excess rent during the five-year period following an OMI notice when the initial rent is restricted. A tenant who was charged excess rent during the five-year period could also sue the landlord for treble damages.

Finally, the proposed ordinance deletes portions of Section 37.10A that were invalidated by the decision of the Court of Appeal in *Baba v. Bd. of Sup'rs of City & County of San Francisco* (2004) 124 Cal. App. 4th 504.

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June 29, 2017

URGENT

President London Breed and other members of the S.F. Board of Supervisors
S.F. Board of Supervisors
25 Van Ness Ave.
San Francisco, CA. 94102

RE: Supervisor Mark Farrell's Proposed Owner Move-In Evictions (OMI) Legislation

Dear President Breed and Honorable Supervisors,

I am writing to urge you to vote no on the proposed legislation for various reasons. I have a problem with the enforcement provisions in it. Some advocates have said that allowing nonprofits to sue hotel owners has had a dramatic affect in reducing evictions at SROs, but is that the only factor or even a factor? Have there been any independent studies done? Even so, is it a valid comparison using SROs? The other problem I've seen is the nonprofits themselves. Having nonprofits involved in defending Unlawful Detainer Lawsuits (UDLs) have already resulted in abuse of the legal system. Invariably, the nonprofits accuse the landlord of everything under the sun on behalf of their clients. All you need to do is look at the San Francisco Superior Court website. I believe it would be more appropriate to leave it to the city attorney as I think that the nonprofits have an incentive because of the potential of receiving grant funding from the city, etc. to be overzealous – this has already happened with the UDLs. Finally, some cities, for instance, Los Angeles, have what seems to be similar situation, but they haven't allowed nonprofits to sue. More importantly, have there been any independent verification of the NBC stories, etc. that seem to have precipitated this. Just because something starts out as an OMI may not necessarily mean that something may not change down the road.

I think it would be prudent to address this issue as was done with the Airbnb issue in a studied, thorough, thoughtful and in an incremental fashion,There the noncompliance was even much greater and arguably essentially intentional..

Sincerely,
Bill Quan
Bill Quan
2526 Van Ness Ave., #10
San Francisco, CA. 94109

BoardOfSupervisors-MFarrellProposedOwnerMove-InEvictionsJune2017

170349
170417
RECEIVED IN COMMITTEE
6/26/2017

June 25th, 2017

Dear Supervisor Farrell, and Supervisors Peskin and Tang,

St. James Episcopal Church Faith in Action remains deeply troubled by statistics which confirm that our district --District 1--now has the second highest Owner Move In's in our city. Our congregants include nurses, teachers, librarians, millennials, parents of young children, retired senior citizens, social service providers, and clergy--all who serve our city, including those who live in District 2. They will not be able to remain in San Francisco without major OMI reform intended to hold ***all*** of us accountable. This includes landlords, as well as renters.

We thank Supervisor Farrell for his efforts in crafting legislation to address unjust OMI's. However, we're concerned that it may not go far enough to prevent homelessness, and support the working poor, the middle class, and retired citizens. Evictions caused by unjust OMI's add to the homelessness in our neighborhood, and are escalating the exodus of our congregants.

We remained concerned that the legislation proposed by Supervisors Peskin and Kim was long delayed in being placed on the agenda, which impeded and delayed open, respectful, timely dialogue. St. James Faith in Action are allies of the Richmond Housing Rights Committee. Our congregants have been well served by them, and have been able to remain in our city because of their advocacy. Legislation which strengthens their ability to prevent homelessness, and keep our congregants in SF would mean a great deal.

We remain concerned that the west side of San Francisco --which includes our district-- only recently acquired one land trust building. Equitable distribution of the small site program, as proposed by Supervisor Fewer, will go far in prevention of homelessness of our congregants.

Thank you for your commitment to making SF affordable for ***all*** of us. We're in this together.

Respectfully yours,
St. James Episcopal Church Faith in Action

The Rev. John Kirkley , Rector
The Rev. Ayanna Moore, Ecumenical Associate
Barbara Webb
Margaret McGraff
Petrina Grube
Jaime Borrazas
Sandra Dratler, resident of District 2

170349
170417

any advocate worth his/her salt is bound to be a pain in *somebody's ass. i, for one, have become a professional 'pain in the ass'—*contrary to the idea that 'professionals' are paid for what they do...

Received In Committee
6/26/2017

i was raised a certain way, *[fired in a kiln] that burned beliefs into my soul that not only spurred me onto an excellent caliber of education and opportunities in this brief life, but also served to keep me out of jail and alive, despite how many of my counterparts and people of color reside behind bars, or have died. while i'm relatively articulate, i fail to find words to truly express the weight this all bears on my mind, my heart, and an innate ability to live daily life that so many tend to take for granted.

given all that has been so egregiously distorted in the bigger picture, considering the woes of our particular planet, and those in the throes of unspeakable despair, these are the solvable problems.

we've already done the lion's share of the legwork. we're, simply, requiring a return on reciprocity.
no one here is requesting "something for nothing". the sweat-equity invested has been immense.
there are some of us, in this room, on payroll for this time and consideration, while countless others have chipped away in these trenches for years without a dime of compensation, amid the relentless pressure of generating *other income to cover basic costs of living that every human being incurs.
with all due respect to the valid efforts on *all sides of this current contention, it's a matter of math and we're here, discussing this, today, because the figures don't add up, or do us justice.
there is fertile ground. our hands are ready. let's prevent the scenario in which they toil in vain.

open the doors to this ongoing conversation because it's worth having, together. if we allocate these funds properly, compassionately, magnanimously and harmoniously, the rewards are beyond quantity, and the potential would defy gravity.

there is a greater contribution each of us is born to make. this city and county and the world at-large only benefits from what we all provide when housing is stabilized and where we lay our heads is a safe place. we can then redirect time, energy and channel our enduring dedication to elevating this shared existence.

the united states of san francisco has long been a fan of the arts and proves its patronage on every platform along this avenue on which we stand: the symphony, the opera, the ballet, the theater, curtains billow and stages glow with support, sprinkling workers unions&guilds with gold.
however, where is the support for every actor, dancer, musician, photographer, designer, laborer, crew-member, and educator of every pursuit under the sun that needs to live locally and affordably to create every aesthetic that has lifted the collective spirit for generations?
they thrive, interdependently, in communities like ours, in houses like ours, that have remained intact for over 125 years, as a testament to resilience itself. if these buildings can commit to sheltering us from the elements, why should we be any more committed to retrofitting edifices than we are to maintaining the integrity of their versatile infrastructures? evolution demands it.
construction materials breathe, in tandem with all the residents inhabiting whatever they build.
yes, renovations are necessary for code compliance as is preservation of more intrinsic value.

i appreciate your listening intently, your activated cooperation in kind.

170349
SUBMITTED IN COMMITTEE
6/7/2017

June 8, 2017

Board of Supervisors
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 04122

Dear Supervisors:

The eviction crisis in San Francisco is continuing to displace our neighbors and co-workers. We understand that there has been a particular increase in evictions based on owners claiming that they are moving into tenants homes (OMIs), and that a huge percentage of these evictions have been found to be pretexts for evicting tenants, rather than legitimately used as the homes of owners and their relatives.

Furthermore, we have learned from the special GAO hearing of April 28th conducted by Supervisors Peskin and Kim that there is virtually no investigation or enforcement by the city of these fraudulent OMIS by the rent board, the city attorney's office, or the District Attorney. We agree that these fraudulent evictions are robbing us of our neighbors and our affordable housing stock, and we need effective solutions.

We know that the best way to stop these evictions is to work with the people who fight evictions every day to develop solutions. Therefore, we support the list of recommendations by the Tenants Union and Anti Displacement Coalition member organizations, which has been incorporated into legislation introduced on June 6, by Supervisors Peskin and Kim.

For example:

- **We need better information** to find out when and where fraudulent OMIs are happening. Some of these eviction notices are not even filed at the rent board. We need to ensure that landlords timely file these notices with the city, or the city can't enforce its own laws.
- **We need preserve our chance to fight back.** Too many tenants are strong armed into signing away their rights. We want to make sure landlords comply with laws that are already on the books about buyouts so tenants know what they are giving up. Also, if they do give up their rights we want nonprofits to have keep that right to enforce, given the fact that the city has stated they will not do so.
- **We need to make sure that we have a working statute of limitations** that is a realistic time frame for the tenants and advocates to find out what has happened to their former home.
- **We want to make sure Tenants keep their right to return.** Right now, tenants have to send a letter within 30 days of their eviction to have a right to return if

the landlord decides not to move in, which is prohibitive.

None of these provisions cause a burden for those landlords who legitimately intend to move into a unit, but they will make it much more difficult for those landlords who wish to evade the law.

These recommendations and others grew from consultations with experts in the field which include eviction defense lawyers, affirmative case lawyers who bring wrongful eviction lawsuits based on fraudulent Owner Move In cases, Rent Board Commissioners, the City Attorney's office, grassroots organizers and tenant counselors who work with tenants directly impacted.

We understand that competing legislation has also been introduced which fails to solve the issues raised by tenant advocates. This is why we instead support the Peskin/Kim proposed OMI legislation, and hope to see these changes passed by the Board of Supervisors.

Thank you,

California Faculty Association - San Francisco State University

Community Housing Partnership

Jobs with Justice San Francisco

SEIU Local 1021

Senior & Disability Action

UNITE HERE Local 2

United Educators of San Francisco

170349

SUBMITTED IN COMMITTEE
06/12/2017

Table 1A below shows the Cumulative Housing Balance for 10 year 2007 Q1 – 2016 Q4 period is 14% Citywide. With the addition of RAD units, the expanded Cumulative Housing Balance is 23%. In comparison, the expanded Cumulative Housing Balance for 10 year 2006 Q1 – 2015 Q4 period was 18%. The Board of Supervisors recently revised the ordinance to include Owner Move-Ins (OMIs) in the Housing Balance calculation. Although OMIs were not specifically called out by in the original Ordinance in the calculation of the Housing Balance, these were included in earlier reports because this type of no-fault eviction results in the loss of rent controlled units either permanently or for a period of time.

Table 1A
Cumulative Housing Balance Calculation, 2007 Q1 – 2016 Q4

BoS Districts	Net New Affordable Housing Built	Acquisitions & Rehabs and Small Sites Completed	Units Removed from Protected Status	Total Entitled Affordable Units Permitted	Total Net New Units Built	Total Entitled Units	Cumulative Housing Balance
BoS District 1	170	-	(496)	4	340	114	-70.9%
BoS District 2	37	24	(315)	11	871	271	-21.3%
BoS District 3	205	6	(372)	16	951	302	-11.6%
BoS District 4	10	-	(437)	7	115	98	-197.2%
BoS District 5	709	293	(398)	196	1,744	598	34.2%
BoS District 6	3,239	1,155	(135)	960	17,158	6,409	22.1%
BoS District 7	99	-	(220)	-	530	104	-19.1%
BoS District 8	97	17	(655)	17	1,115	416	-34.2%
BoS District 9	217	319	(582)	17	1,034	237	-2.3%
BoS District 10	1,353	24	(249)	274	4,281	2,034	22.2%
BoS District 11	30	-	(323)	9	180	297	-59.5%
TOTALS	**6,166**	**1,838**	**(4,182)**	**1,511**	**28,319**	**10,880**	**13.6%**

170349

From: Board of Supervisors, (BOS)
Sent: Monday, June 12, 2017 1:08 PM
Subject: FW: OMI Reform Legislation

-----Original Message-----
From: Cathy Mosbrucker [mailto:cmosbrucker@gmail.com]
Sent: Friday, June 09, 2017 3:18 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; London.Breed@sfgove.org; Cohen, Malia (BOS) <malia.cohen@sfgov.org>; Mark.Farrell@sfgove.org; Fewer, Sandra (BOS) <sandra.fewer@SFGOV1.onmicrosoft.com>; Kim, Jane (BOS) <jane.kim@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Sheehy, Jeff (BOS) <jeff.sheehy@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; Yee, Norman (BOS) <norman.yee@sfgov.org>
Subject: OMI Reform Legislation

Dear Board of Supervisors:

We are writing to comment upon the Supervisors Farrell, Sheehey, Cohen and Breed amendment to the San Francisco Residential Rent Stabilization and Arbitration Ordinance proposed amendment which is on the agenda of the Land Use and Transportation Committee of Monday, June 12, 2017 as Item 6, No. 170349.

While we applaud Supervisor Farrell for recognizing that owner-move-in eviction abuses are a serious problem currently in the City and think that his legislation is a good start, his proposal does not go far enough to solve the problems that he has identified. We request that the legislative process be slowed slightly to consider some much needed amendments. We urge you to include the provisions and specific language proposed by Supervisor Peskins OMI Reform Legislation.

Before going into detail about our concerns, let us introduce ourselves. We have been landlord-tenant attorneys representing San Francisco tenants since the mid-1980's. We started as eviction defense attorneys with the Tenderloin Housing Clinic in 1985. In 1995 we went into private practice where many of our cases have involved representing tenants who have been victims of fraudulent owner move-in evictions. We have worked with the San Francisco Tenant's Union since the early 1980's. We are currently part of the Tenant Union's working group on OMI eviction protections.

In our experience, both for paying clients and pro bono clients, it is very difficult to defend a tenant who has received a notice to quit for OMI. It is nearly impossible to prove that the landlord does not intend to move into the property. Only after the tenant has been forced to vacate is the landlord's true intent revealed. However, this often takes more than one year to discover. Changing the statute of limitations to three years Like it is in fraud actions, will alleviate this problem but only if the language is framed in a way the the Courts will understand as it is in Supervisor Peskin's proposal.

Because OMI evictions are so hard to defend, there needs to be greater disincentives to filing such actions. Although the Rent Ordinance

currently requires a landlord to file the OMI notice with the Rent Board within 10 days of service, there is no penalty for failing to do so. For the last 20 years the San Francisco Superior Court has deemed that that provision as being a merely administrative function of the Rent Board and has allowed unlawful detainer to proceed even when the notice has not been filed with the Rent Board. In order to give meaning to Supervisor Farrell's amendment, the Ordinance needs clarification by making failure to file the OMI notice with the Rent Board in a timely manner a complete defense to the unlawful detainer action.

Again, we feel that the comprehensive proposals in Supervior Peskin's OMI Reform Legislation are necessary to stem the flood of fraudulent OMI that are sweeping long term San Francisco tenants out of the City.
The proposed changes will not burden landlords who are acting in good faith, but it will provide teeth to our current OMI law.

Yours truly,

Cathy Mosbrucker and Mary Jane Foran
Mosbrucker & Foran
870 Market Street, Suite 313
San Francisco, CA 94102
(415) 398-9880
cmosbrucker@gmail.com

170417
170849
RECEIVED VIA EMAIL
06/12/2017

June 12, 2017

RE: OMI evictions legislation

Dear Members of the Board of Supervisors:

We write regarding two different proposals that seek to address in the serious impact of OMI evictions on our communities citywide: legislation authored by Supervisors Peskin, Kim and Ronen and another measure by Supervisors Farrell, Sheehy, Cohen and Breed. For the reasons we discuss below, we urge you to support the Peskin-Kim-Ronen Anti-Fraud ordinance and to reject the flawed Farrell-Sheehy-Cohen-Breed alternative.

Owner and Relative Move-in (OMI) evictions are undoubtedly the most abused "just cause" for eviction today. Even though our OMI Laws may look strong on paper, many landlord speculators have displaced tenants using OMI eviction loopholes in order to get higher rents for their properties. These fraudulent evictions contribute to our crisis levels of displacement and the ever-shrinking supply of affordable housing for low and middle income residents.

The San Francisco Tenants Union and a large coalition of tenant advocates have spent the last year crafting a number of recommended solutions to close these loopholes. Our recommendations grew from consultations with experts in the field which include eviction defense lawyers, affirmative case lawyers, Rent Board Commissioners, the City Attorney's office, the District Attorney's office, grassroots organizers and our own intricate knowledge from counseling thousands of tenants annually in our offices.

None of the provisions we suggest cause a burden for those landlords who legitimately intend to move into a unit, but they will make it much more difficult for those landlords who wish to evade the law.

There are two major defects in our existing law that can and should be addressed by way of an ordinance:

Problem I: *Tenants and the City lack enforcement tools to stop fraudulent OMIs. More reporting requirements without tools to enforce the law will not solve the problem.*

As a recent NBC investigative report concludes, in up to 25% of Owner Move-In evictions, the owner or relative for whom the eviction was justified do not in fact move in. This confirms the many individual accounts of displaced tenants who have contacted our organizations. The threat of an OMI eviction most often results in tenants agreeing to move out, rather than deal with the stress of a legal battle or monitoring the landlord's move-in themselves. But once tenants agree to move out, owners often do not move in and may never have intended to move in. Under existing law there is little or nothing that can be done to prosecute that underlying fraudulent eviction.

The Farrell-Sheehy proposal fails to address ~~this~~ the core enforcement gap. That proposal primarily creates a set of *reporting* requirements after a tenant moves out. It does nothing to help

tenants ~~to~~ stop a sham eviction. It also fails to address an inconvenient truth: most tenants who are threatened with eviction are told they have no choice but to move out and sign an agreement to waive any rights to return. Tenants who sign such an agreement also give up their right to sue. Under the Farrell-Sheehy leg, once tenants waive their rights to sue, the reporting requirements become meaningless and unenforceable. More reporting requirements without stronger enforcement tools will not stop OMI eviction fraud.

The Peskin-Kim proposal helps stop sham OMI evictions before they happen AND fixes the core enforcement gap problem. The proposal includes the following measures recommended by tenants and their representatives:

- Make failure to file eviction notices with the Rent Board a defense against evictions.
- Require landlords to verify that owners and/or relatives actually move-in subject to fines.
- Extend the time period that evicted tenants have a right to return to their units once owners or relatives move out.
- Require landlords to file with the Rent Board all agreements in which a tenant gives up their rights under the law.

***Problem II**: Landlords who fraudulently evict tenants and then increase rents for subsequent tenants suffer no penalty even if caught.*

Under existing law, if an apartment is rented out within three years after an OMI eviction, the landlord cannot increase the rent over the rent charged to the evicted tenant. Existing law requires the owner to file reports about such evictions and the existing rents. But such requirements are frequently ignored. Violators are only required to return illegally charged rent increases, and new tenants are often unwilling to risk angering their landlord even if they find out they are being overcharged. Under existing laws there are no additional penalties for violations of these requirements.

The Farrell-Sheehy proposal only increases reporting requirements but does nothing to strengthen enforcements requirements.

The Peskin-Kim proposal gives tenants and the public new tools to enforce the law including:

- Provides tenants who move in after an OMI eviction and who are charged illegal rent increases the right to sue and seek treble damages.
- Authorizes nonprofit organizations to go to court to require compliance with the OMI law and require payment of penalties for violating the law.

The summary above addresses some of the most essential elements of our recommended solutions to the problem of fraudulent OMI evictions. We would be happy to address questions or discuss additional details.

Fraudulent OMI evictions cause deep and often irreparable harm to evicted tenants, neighborhoods, and future tenants who are charged inflated rents. The lack of effective enforcement encourages new evictions and harm to our City.

For these reasons we urge the Board to take effective action to stop fraudulent OMI evictions by passing the Peskin-Kim-Ronen Anti-Fraud Ordinance -- the only proposal that has broad tenant support. The Farrell-Sheehy-Cohen-Breed alternative is deeply flawed and should not be approved.

Sincerely,

San Francisco Tenants Union

Affordable Housing Alliance

Asian Americans Advancing Justice – Asian Law Caucus

Causa Justa :: Just Cause

Chinatown Community Development Center

Eviction Defense Collaborative

Faithful Fools Street Ministry

Housing Rights Committee of San Francisco

North Beach Tenants Committee

Senior and Diability Action

South of Market Community Action Network

Tenderloin Housing Clinic

BOARD of SUPERVISORS

City Hall
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

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Mark Farrell, Chair
Land Use and Transportation Committee

FROM: Alisa Somera, Legislative Deputy Director

DATE: June 27, 2017

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, June 27, 2017

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, June 27, 2017. This item was acted upon at the Committee Meeting on Monday, June 26, 2017, at 1:30 p.m., by the votes indicated.

Item No. 33 **File No. 170349**

Ordinance amending the Administrative Code regarding owner move-in and relative move-in ("OMI") evictions to require a landlord seeking to recover possession of a unit for an OMI to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord's relative for at least 36 continuous months; require a landlord to provide the tenant with a form prepared by the Rent Board to be used to advise the Rent Board of any change in address; clarify the evidentiary standard for finding that an OMI was not performed in good faith; require a landlord to file documentation with the Rent Board regarding the status of an OMI, with a penalty for not filing such documentation, and requiring the Rent Board to transmit a random sampling of such documentation to the District Attorney; extend from three to five years the time period after an OMI during which a landlord who intends to re-rent the unit must first offer the unit to the displaced tenant; provide that a landlord who charges above the maximum allowable rent during the five-year period after an OMI is guilty of a misdemeanor; require the Rent Board to annually notify the unit occupant of the maximum rent for the unit for five years after an OMI, and authorize the occupant to sue for three times any excess rent charged; extend the statute of limitations for wrongful eviction claims based on an unlawful OMI from one year to five years; and making clarifying changes.

Page 2

AMENDED, AMENDMENT OF THE WHOLE BEARING NEW TITLE

Vote: Supervisor Mark Farrell - Aye
Supervisor Aaron Peskin - Aye
Supervisor Katy Tang - Aye

REFERRED WITHOUT RECOMMENDATION AS AMENDED AS A COMMITTTEE REPORT

Vote: Supervisor Mark Farrell - Aye
Supervisor Aaron Peskin - Aye
Supervisor Katy Tang - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney

BOARD of SUPERVISORS

City Hall
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

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Mark Farrell, Chair
Land Use and Transportation Committee

FROM: Erica Major, Assistant Clerk

DATE: June 13, 2017

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, June 13, 2017

The following file scheduled to be presented as a **COMMITTEE REPORT** at the Tuesday, June 13, 2017 Board Meeting was CONTINUED AS AMENDED to June 26, 2017, Land Use and Transportation Committee meeting at the Committee Meeting on Monday, June 12, 2017, at 1:30 p.m.

Item No. 35, File No. 170349, was not sent as a Committee Report.

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney

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
Olson Lee, Director, Mayor's Office of Housing and Community Development
Nadia Sesay, Interim Executive Director, Office of Community Investment and Infrastructure

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: May 23, 2017

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed substitute legislation, introduced by Supervisor Farrell on May 16, 2017:

File No. 170349

Ordinance amending the Administrative Code to require a landlord seeking to recover possession of a rental unit based on an owner move-in ("OMI") or relative move-in ("RMI") to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord's relative for at least 36 continuous months; require a landlord seeking to recover possession of a rental unit based on an OMI or RMI to provide the tenant with a form prepared by the Rent Board to be used to advise the Rent Board of any change in address; require a landlord to file annual documentation with the Rent Board for three years after an OMI or RMI showing whether the landlord or relative is occupying the unit as his or her principal place of residence; require the Rent Board to annually notify the unit occupant of the maximum rent for the unit for three years after an OMI or RMI; and extend the statute of limitations for wrongful eviction claims based on an unlawful OMI or RMI from one year to three years.

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

BOARD of SUPERVISORS

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MEMORANDUM

TO: Robert Collins, Executive Director, Rent Board
Olson Lee, Director, Mayor's Office of Housing and Community Development
Nadia Sesay, Interim Executive Director, Office of Community Investment and Infrastructure

FROM: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: April 11, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Farrell on April 4, 2017:

File No. 170349

Ordinance amending the Administrative Code to require a landlord seeking to recover possession of a rental unit based on an owner move-in ("OMI") or relative move-in ("RMI") to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord's relative for a period of at least 36 continuous months; and to require a landlord following an OMI or RMI to provide annual documentation for 36 months showing whether the landlord or the landlord's relative is occupying the unit as his or her principal place of residence.

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

COB Com. Clerk / Leg. Dep

Member, Board of Supervisor
District 2

City and County of San Francisco

MARK FARRELL

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2017 JUN 22 AM 10: 05

DATE: June 22, 2017

TO: Angela Calvillo
Clerk of the Board of Supervisors

Mark S. Farrell

FROM: Supervisor Mark Farrell

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, June 27, 2017, as Committee Reports:

170702 **Fee Waiver - LMC San Francisco I Holdings, LLC - 1515 South Van Ness Avenue**

Ordinance approving a fee waiver under Building Code, Section 106A.4.13, for LMC San Francisco I Holdings, LLC's project at 1515 South Van Ness Avenue; and adopting findings under the California Environmental Quality Act.

170349 **Administrative Code - Owner Move-In Reporting Requirements**

Ordinance amending the Administrative Code regarding owner move-in and relative move-in ("OMI") evictions to require a landlord seeking to recover possession of a unit for an OMI to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord's relative for at least 36 continuous months; require a landlord to provide the tenant with a form prepared by the Rent Board to be used to advise the Rent Board of any change in address; clarify the evidentiary standard for finding that an OMI was not performed in good faith; require a landlord to file documentation with the Rent Board regarding the status of an OMI, and requiring the Rent Board to transmit a random sampling of such documentation to the District Attorney; extend from three to five years the time period after an OMI during which a landlord who intends to re-rent the unit must first offer the unit to the displaced tenant; require the Rent Board to annually notify the unit occupant of the maximum rent for the unit for five years after an OMI; and extend the statute of limitations for wrongful eviction claims based on an unlawful OMI from one year to five years.

City Hall • 1 Dr. Carlton B. Goodlett Place • Room 244 • San Francisco, California 94102-4689 • (415) 554-7752
Fax (415) 554 - 7843 • TDD/TTY (415) 554-5227 • E-mail: mark.farrell@sfgov.org • www.sfbos.org/farrell

170417 **Administrative Code - Owner Move-In Evictions and Other Landlord-Tenant Matters**

Ordinance amending the Administrative Code regarding owner and relative move-in ("OMI") evictions to require a landlord seeking to recover possession of a unit for an OMI to provide the tenant with an approved form to advise the Rent Board of address changes; clarify the evidentiary standard for finding that an OMI was performed in good faith; require a landlord to file documentation with the Rent Board regarding the status of the OMI, with a penalty for not filing such documentation, and requiring the Rent Board to transmit a random sampling of such documentation to the District Attorney; extend from three to five years the time period after an OMI during which a landlord who intends to re-rent the unit must first offer the unit to the displaced tenant; authorize a tenant who has been charged excess rent within five years after an OMI to sue for treble damages; as to matters not limited to OMI evictions, provide that a landlord's failure to timely file a copy of the notice to vacate with the Rent Board is a defense in an unlawful detainer proceeding; provide that a tenant waiver of rights in a buyout agreement is not enforceable if the buyout is not timely filed with the Rent Board; extend from one to three years the statute of limitations for wrongful eviction claims; authorize interested non-profit organizations to sue for wrongful eviction and collection of excess rent; and making clarifying changes.

170296 **Planning Code, Zoning Map - Corona Heights Large Residence Special Use District**

Ordinance amending the Planning Code and Sectional Maps SU06 and SU07 of the Zoning Map to create the Corona Heights Large Residence Special Use District (the area within a perimeter established by Market Street, Clayton Street, Ashbury Street, Clifford Terrace, Roosevelt Way, Museum Way, the eastern property line of Assessor's Parcel No. 2620, Lot No. 063, the eastern property line of Assessor's Parcel No. 2619, Lot No. 001A, and Douglass Street; and all additional parcels fronting States Street), to promote and enhance neighborhood character and affordability by requiring Conditional Use authorization for large residential developments in the district; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, June 26, 2017, at 1:30 p.m.

Member, Board of Supervisor
District 2

MARK FARRELL

City and County of San Francisco

DATE: June 8, 2017

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Mark Farrell

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, June 13, 2017, as Committee Reports:

170630 Real Property Conveyance - 1 Lillian Court, also known as Shoreview Park - Office of Community Investment and Infrastructure - Recreation and Park - At No Cost

Resolution authorizing and approving the acceptance of Shoreview Park, located at 1 Lillian Court, from the Office of Community Investment and Infrastructure to the City and County of San Francisco on behalf of its Recreation and Park Department, at no cost; and making findings that such acceptance is in accordance with the California Environmental Quality Act, the General Plan, and the eight priority policies of Planning Code, Section, 101.1.

170349 Administrative Code - Owner Move-In Reporting Requirements

Ordinance amending the Administrative Code to require a landlord seeking to recover possession of a rental unit based on an owner move-in ("OMI") or relative move-in ("RMI") to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord's relative for at least 36 continuous months; require a landlord seeking to recover possession of a rental unit based on an OMI or RMI to provide the tenant with a form prepared by the Rent Board to be used to advise the Rent Board of any change in address; require a landlord to file annual documentation with the Rent Board for three years after an OMI or RMI showing whether the landlord or relative is occupying the unit as his or her principal place of residence; require the Rent Board to annually notify the unit occupant of the maximum rent for the unit for three years after an OMI or RMI; and extend the statute of limitations for wrongful eviction claims based on an unlawful OMI or RMI from one year to three years.

170702 Fee Waiver – LMC San Francisco I Holdings, LLC – 1515 Van Ness Avenue

City Hall • 1 Dr. Carlton B. Goodlett Place • Room 244 • San Francisco, California 94102-4689 • (415) 554-7752
Fax (415) 554 - 7843 • TDD/TTY (415) 554-5227 • E-mail: mark.farrell@sfgov.org • www.sfbos.org/farrell

Ordinance approving a fee waiver under Building Code, Section 106A.4.13, for LMC San Francisco I Holdings, LLC's project at 1515 South Van Ness; and adopting findings under the California Environmental Quality Act.

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, June 12, 2017, at 1:30 p.m.

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2017 MAY 16 PM 4:32

BY: _____ Time stamp or 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 [ ] inquiries"
- ☐ 5. City Attorney Request.
- ☐ 6. Call File No. [ ] from Committee.
- ☐ 7. Budget Analyst request (attached written motion).
- ☑ 8. Substitute Legislation File No. 170349
- ☐ 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 the Imperative Form.

Sponsor(s):

Supervisors Mark Farrell; Jeff Sheehy, Malia Cohen, London Breed

Subject:

Administrative Code - Owner Move-In Reporting Requirements

The text is listed:

Attached.

Signature of Sponsoring Supervisor:

For Clerk's Use Only

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2017 APR -4 PM 3:05
BY

Time stamp or 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):

Supervisor Farrell; Sheehy, Cohen, Breed

Subject:

Administrative Code - Owner Move-In Reporting Requirements

The text is listed below or attached:

Ordinance amending the Administrative Code to require a landlord seeking to recover possession of a rental unit based on an owner move-in ("OMI") or relative move-in ("RMI") to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord's relative for a period of at least 36 continuous months; and to require a landlord following an OMI or RMI to provide annual documentation for 36 months showing whether the landlord or the landlord's relative is occupying the unit as his or her principal place of residence.

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only: