

LEGISLATIVE DIGEST

(Revised 09/30/19)

[Administrative Code - Compliance with Right to Return for Temporarily Displaced Tenants]

Ordinance amending the Administrative Code to clarify that temporary evictions for capital improvements are intended to cover work that would make the unit hazardous, unhealthy, and/or uninhabitable, and are intended to last for the minimum amount of time required to complete the work; modify the standards that the Rent Board must consider when reviewing a request to authorize a temporary eviction for capital improvements to last more than three months; establish procedures for the landlord to inform the displaced tenant of the tenant's right to reoccupy the unit upon completion of the work; and establish that a landlord's failure to timely allow the tenant to reoccupy the unit may create a rebuttable presumption that the tenancy has been terminated by the landlord rather than by the tenant.

Existing Law

Current law provides that a landlord may temporarily regain possession of a rental unit for the purpose of undertaking capital improvements or rehabilitation (Administrative Code Section 37.9(a)(11)). Tenants may be required to vacate their rental unit only for the minimum amount of time required to complete the capital improvements or rehabilitation, and have the right to re-occupy their rental units at the prior rent with certain allowable adjustments.

Also, while a landlord ordinarily may charge market rent at the start of any new tenancy, a separate provision of the Administrative Code, Section 37.3(f)(1), creates an exception that remains in place for five years after certain types of evictions (including 37.9(a)(11)). In these situations, the initial base rent for the subsequent tenancy may not exceed what the prior tenant would have paid had they remained in the unit.

Amendments to Current Law

This ordinance would amend Section 37.9(a)(11) as follows: First, it would clarify existing law that evictions under Section 37.9(a)(11) are only intended to cover work that would make the unit hazardous, unhealthy, and/or uninhabitable, and that landlords may not displace their tenants for longer than the minimum time required to do the work. Second, it would specify criteria for the Rent Board to consider when evaluating whether to authorize these evictions to last more than 90 days. Third, it would require a landlord when performing the eviction to provide the tenant a disclosure concerning the tenant's right to reoccupy the unit when the work is complete. Finally, in situations where the landlord did not timely allow the tenant to reoccupy the unit and the tenant subsequently did not return to the unit, the ordinance would create a rebuttable presumption under Section 37.3(f)(1) that the landlord may not charge the new tenant more than what the prior tenant would have paid had they remained in the unit.

The Rent Board would be required to send the occupant a notice to inform them of their rights under Section 37.3(f)(1).

Background Information

The proposed legislation reflects amendments made by the Rules Committee of the Board of Supervisors at its regular meeting on September 23, 2019. The Rules Committee approved changes regarding the intended purpose and duration of evictions under Section 37.9(a)(11), added a required form for tracking the address of tenants, modified the standards for the Rent Board or Administrative Law Judge to review extensions for temporary evictions, and deleted a requirement for the Department of Building Inspection to withhold a certificate of final completion.

The legislation also reflects further amendments that the Rules Committee approved at its meeting on September 30, 2019:

- This ordinance initially proposed revising Administrative Code Sections 47.2 and 47.3. At its regular meeting on September 30, 2019, the Rules Committee amended this ordinance to remove Sections 47.2 and 47.3, such that this ordinance no longer includes revisions to those Sections.
- The ordinance now includes an uncodified section with respect to the changes that explain the intended purpose and duration of evictions under Section 37.9(a)(11). The uncodified section explains that these changes merely clarify existing law, and apply to all rental units including those where a notice to vacate or quit has already been served but where the tenant has not yet vacated or an unlawful detainer has not yet issued.
- The ordinance further modifies the standards that govern extensions for temporary evictions, and adds new language regarding the maximum rent the landlord may charge to a new tenant, if the landlord failed to timely allow the original tenant to reoccupy the unit and the original tenant did not reoccupy the unit.

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