

REVISED LEGISLATIVE DIGEST

(Substituted, 10/5/2021)

[Planning, Administrative Codes - Accessory Dwelling Units]

Ordinance amending the Planning Code to clarify the requirements for applications to construct Accessory Dwelling Units under the City’s local Accessory Dwelling Unit approval process; amending the Administrative Code to clarify that landlords may not remove certain tenant housing services without just cause and that issuance of a building permit does not constitute just cause; making findings as required by the Tenant Protection Act of 2019; affirming the Planning Department’s determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Planning Code subsection 207(c)(4)) sets forth the City’s discretionary local approval process for accessory dwelling unit (ADU) projects that are not eligible for state-mandated, ministerial consideration by the City.

Chapter 37 of the Administrative Code (the City’s Residential Rent Stabilization and Arbitration Ordinance, or Rent Ordinance) protects tenants in certain rental units from evictions without just cause. Under Rent Ordinance section 37.2(r), a rental unit includes all housing services, privileges, furnishings, and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities. Such housing services may not be severed from a tenancy without just cause, as required by Rent Ordinance section 37.9. The issuance of a permit for construction of an Accessory Dwelling Unit does not in and of itself constitute a just cause for the purpose of severing, reducing, or removing a housing service.

Amendments to Current Law

This ordinance would require project sponsors seeking to construct an ADU under Planning Code subsection 207(c)(4) to submit a written declaration, signed under penalty of perjury, to the San Francisco Rent Stabilization and Arbitration Board (Rent Board) that the project will comply with the requirements of Administrative Code Sections 37.2(r) and 37.9 relating to severance, substantial reduction, or removal of certain housing services. This ordinance would require the Rent Board to determine the form and content of the declaration, which shall include, at minimum, the following information:

- (1) A description of any housing services supplied in connection with the use or occupancy of any units on the subject property that are located in the area of the property or building where the ADU would be constructed;

- (2) Whether construction of the ADU would result in the severance, substantial reduction, or removal of any such housing services; and
- (3) The just cause for the severance, substantial reduction, or removal of such housing services.

The ordinance would allow tenants at the subject property to contest the information in the declaration by petitioning for a written determination from the Rent Board verifying the presence and defining characteristics of the housing service or services in question, and whether any such housing services would be severed, substantially reduced, or removed by the project as proposed. If no petition is timely filed, the ordinance would require the Rent Board to transmit the declaration to the Planning Department promptly. If a petition is timely filed, the ordinance would require the Rent Board to endeavor to transmit the declaration to the Planning Department within 90 days of receiving the petition.

The Planning Department would no longer be authorized to approve an application to construct an ADU under subsection (c)(4) unless (1) the Department has received the declaration or final written determination from the Rent Board, and (2) the declaration and final written determination indicate that construction of the ADU would not result in severance, substantial reduction, or removal of any tenant housing service that is supplied in the area of the property or building where the ADU would be constructed without just cause, unless the property owner demonstrates that the tenant supplied with that housing service has given their express written consent for the severance, substantial reduction, or removal of the housing service.

This ordinance also sets forth additional tenant notification requirements for applications to construct an ADU under subsection 207(c)(4).

This ordinance amends Rent Ordinance sections 37.2(r) and 37.9 to clarify existing law that the issuance of a permit for construction of an ADU does not in and of itself constitute a just cause for the purpose of severing a housing service.

Background Information

San Francisco first enacted a local ADU ordinance in 2015 and has updated its ADU program several times since then, both in response to amendments to State law and also to facilitate the construction of ADUs under the City's local program.

n:\legana\as2021\2100393\01558831.docx