

BOARD of SUPERVISORS



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# MEMORANDUM

TO: Adele Carpenter, Director  
Youth Commission

FROM: *ll*  
*fr* Angela Calvillo, Clerk of the Board

DATE: May 5, 2017

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors has received the following proposed legislation which is being referred to the Youth Commission as per Charter Section 4.124 for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 170420**

**Ordinance amending the Administrative Code to include all persons regardless of age who have been lawfully occupying a rental unit as eligible tenants for purpose of calculating Ellis Act relocation payments.**

Please return this cover sheet with the Commission's response to Alisa Somera, Land Use and Transportation Committee.

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**RESPONSE FROM YOUTH COMMISSION**      Date: \_\_\_\_\_

\_\_\_\_\_ **No Comment**

\_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Youth Commission**

[Administrative Code - Relocation Assistance for Lawful Occupants Regardless of Age]

**Ordinance amending the Administrative Code to include all persons regardless of age who have been lawfully occupying a rental unit as eligible tenants for purpose of calculating Ellis Act relocation payments.**

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 ~~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. Purpose and Findings.

San Francisco’s housing has become increasingly unaffordable for low-income, working, and middle-income families. At the same time, the City has experienced a high rate of evictions, particularly under the Ellis Act. The City’s Residential Rent Stabilization and Arbitration Ordinance (“Rent Ordinance”) allows landlords to perform Ellis Act evictions (see Administrative Code Section 37.9(a)(13)), and requires landlords to provide a relocation benefit of \$4,500 per tenant, up to \$13,500, to mitigate the adverse impacts of those evictions. However, a court has now held that children lawfully occupying a rental unit do not qualify under the Rent Ordinance as “tenants” for this purpose and therefore are not entitled to any relocation benefit under this provision. See *Danger Panda, LLC v. Nancy Ann Launiu*, 1st Dist. Ct. App. Case No. A149062 (April 4, 2017). At the same time, the Court made clear that it was interpreting the term “tenant” only under the existing text of the Rent Ordinance, and

1 was not addressing the City's power to amend the Rent Ordinance to include children for  
2 relocation benefit purposes.

3 The Board of Supervisors finds that this relocation benefit should account for the  
4 adverse impacts on children who are displaced and for the higher moving and relocation costs  
5 that a tenant family with children will experience following an Ellis Act eviction. There is a  
6 strong public interest in taking displaced children into account when calculating this relocation  
7 benefit. This ordinance furthers the public interest by requiring the relocation benefit to be  
8 calculated based on all lawful occupants in the unit regardless of age.

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10 Section 2. The Administrative Code is hereby amended by revising Section 37.9A, to  
11 read as follows:

12 **SEC. 37.9A. TENANT RIGHTS IN CERTAIN DISPLACEMENTS UNDER SECTION**  
13 **37.9(a)(13).**

14 This Section 37.9A applies to certain tenant displacements under Section  
15 37.9(a)(13), as specified.

16 \* \* \* \*

17 **(e) Relocation Payments to Tenants.**

18 \* \* \* \*

19 (3) On or After February 20, 2005. Where a landlord seeks eviction based upon  
20 Section 37.9(a)(13), and the notice of intent to withdraw rental units is filed with the Board on  
21 or after February 20, 2005, relocation payments shall be paid to the tenants as follows:

22 (A) Subject to Subsections 37.9A(e)(3)(B), (C), and (D) below, *each the*  
23 *landlord shall be required to pay a relocation benefit on behalf of each authorized occupant of the*  
24 *rental unit regardless of the occupant's age ("Eligible Tenant"). The amount of the relocation benefit*  
25 *tenant shall be entitled to receive \$4,500 per Eligible Tenant, one-half of which shall be paid at*



1 the time of the service of the notice of termination of tenancy, and one-half of which shall be  
2 paid when the Eligible Tenant ~~tenant~~ vacates the unit;

3 (B) In the event there are more than three Eligible Tenants ~~tenants~~ in a unit,  
4 the total relocation payment shall be \$13,500-00, which shall be allocated proportionally among  
5 the Eligible Tenants based on divided equally by the total number of Eligible Tenants ~~tenants~~ in the  
6 unit; and

7 (C) Notwithstanding Subsections 37.9A(e)(3)(A) and (B), any Eligible Tenant  
8 ~~tenant~~ who, at the time the notice of intent to withdraw rental units is filed with the Board, is 62  
9 years of age or older, or who is disabled within the meaning of Section 12955.3 of the  
10 California Government Code, shall be entitled to receive an additional payment of \$3,000-00,  
11 \$1,500-00 of which shall be paid within ~~fifteen (15)~~ calendar days of the landlord's receipt of  
12 written notice from the tenant of entitlement to the relocation payment, and \$1,500-00 of which  
13 shall be paid when the Eligible Tenant ~~tenant~~ vacates the unit.

14 (D) Commencing March 1, 2005, the relocation payments specified in  
15 Subsections 37.9A(e)(3)(A) and (B) and (C) shall increase annually at the rate of increase in  
16 the "rent of primary residence" expenditure category of the Consumer Price Index (CPI) for All  
17 Urban Consumers in the San Francisco-Oakland-San Jose Region for the preceding calendar  
18 year, as that data is made available by the United States Department of Labor and published  
19 by the Board.

20 \* \* \* \*

21  
22 Section 3. Effective Date. This ordinance shall become effective 30 days after  
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
25 of Supervisors overrides the Mayor's veto of the ordinance.

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2           Section 4. Scope of Ordinance.

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

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

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19           Section 6. Pending Matters. The Residential Rent Stabilization and Arbitration  
20 Ordinance, at Administrative Code Section 37.9A(e)(3)(E), describes an additional method of  
21 calculating relocation benefits following an Ellis Act eviction. Under that method, landlords are  
22 directed to calculate relocation benefits based on the difference between the tenant's existing  
23 rent and the fair market rent for a comparable unit. The City has been enjoined from  
24 enforcing Section 37.9A(e)(3)(E) and accordingly will continue to enforce the rest of Section  
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1 37.9A(e)(3) and any amendments thereto unless and until the injunctions precluding  
2 enforcement of Section 37.9A(e)(3)(E) are lifted or dissolved.

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

By:   
Manu Pradhan  
Deputy City Attorney

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**LEGISLATIVE DIGEST**

[Administrative Code - Relocation Assistance for Lawful Occupants Regardless of Age]

**Ordinance amending the Administrative Code to include all persons regardless of age who have been lawfully occupying a rental unit as eligible tenants for purpose of calculating Ellis Act relocation payments.**

Existing Law

The City's Residential Rent Stabilization and Arbitration Ordinance allows landlords to perform Ellis Act evictions, provided that the landlord makes a relocation payment to each displaced "tenant" in order to mitigate the adverse impacts of the eviction. Admin. Code §§ 37.9(a)(13), 37.9A(e)(3)(A). When first enacted, the amount of this relocation payment was \$4,500 per tenant, up to a maximum of \$13,500 if there were more than three tenants in the unit. Due to required inflation adjustments, the current amount is \$6,286.03 per tenant, up to \$18,858.07 per unit. Additional payments may also be required if the eviction would displace tenants who are 62 years or older or who are disabled.

Amendments to Current Law

The legislation would amend Section 37.9A(e)(3)(A) to require landlords to pay relocation payments to all "Eligible Tenants," which would be defined to mean all persons regardless of age who have been lawfully occupying the rental unit. The existing amounts (\$6,286.03 per Eligible Tenant, up to a maximum \$18,858.07 per unit, plus possible additional payments due to age or disability) would not change.

Background Information

The amendment is intended to address the Court of Appeal's decision in *Danger Panda, LLC v. Nancy Ann Launiu*, 1st Dist. Ct. App. Case No. A149062 (April 4, 2017), which held that landlords are not required to pay relocation benefits on behalf of children occupying the unit because children do not qualify as "tenants."

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