

LEGISLATIVE DIGEST

[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 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.

Existing Law

The Residential Rent Stabilization and Arbitration Ordinance allows a landlord to recover possession of a rental unit if the landlord has a “good faith” intent to occupy the rental unit as his or her own principal residence for a period of at least 36 continuous months (an “Owner Move-In,” or “OMI”). Under certain conditions, a landlord can also recover possession of a rental unit based on a “good faith” intent to use the unit as the principal place of residence of the landlord’s family members for a period of at least 36 continuous months (a “Relative Move-In,” or “RMI”).

A landlord formally initiates the OMI or RMI process by serving the tenant in the rental unit a notice to vacate. The Rent Ordinance does not specify how soon after the notice to vacate the landlord or the relative must move in, and allows a landlord who has performed an OMI or RMI to not move in and instead rent out the unit to a new tenant (subject to certain conditions and limitations). Landlords are not currently required to report to the Rent Board regarding the use of a rental unit following an OMI or RMI.

Amendments to Current Law

The amendments would require the notice to vacate for an OMI or RMI to include a declaration executed by the landlord 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, and would require the landlord to execute the declaration under penalty of perjury and file the declaration with the Rent Board. Evidence that the landlord did not file the declaration with the Rent Board, or evidence that the landlord or the landlord’s relative did not move into the unit within three months after the notice was served on the tenant or did not occupy the unit as their principal residence for at least 36 continuous months after moving in, would create a rebuttable presumption that the landlord had not performed the OMI or RMI in good faith.

The amendments would also require a landlord to file an annual “statement of occupancy” with the Rent Board up until 36 months after the OMI or RMI was performed. The statement of occupancy would require the landlord to certify under penalty of perjury whether the unit was occupied as the principal residence of the landlord or relative, and would require the landlord to submit supporting documentation. A landlord’s failure to file a statement of occupancy and supporting documentation would create a rebuttable presumption that the landlord had not performed the OMI or RMI in good faith.

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