

BOARD of SUPERVISORS



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MEMORANDUM

TO: Patrick O'Riordan, Director, Department of Building Inspection
Christina Varner, Executive Director, Residential Rent Stabilization and Arbitration Board
Dr. Grant Colfax, Director, Department of Public Health
Anne Pearson, Deputy City Attorney, Office of the City Attorney

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: December 6, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Melgar on November 28, 2023.

File No. 231224

Ordinance amending the Housing Code to authorize occupants of residential dwelling units to sue to enforce the prohibition on substandard housing conditions.

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: john.carroll@sfgov.org.

cc:
Office of Chair Melgar
Patty Lee, Department of Building Inspection
Carl Nicita, Department of Building Inspection
Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Ana Validzic, Department of Public Health

1 [Housing Code - Tenant Enforcement of Habitability Requirements]

2

3 **Ordinance amending the Housing Code to authorize occupants of residential dwelling**
4 **units to sue to enforce the prohibition on substandard housing conditions.**

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6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

10

11 Be it ordained by the People of the City and County of San Francisco:

12

13 Section 1. Purpose and Findings.

14 (a) The City's Department of Building Inspection helps to ensure that building
15 owners keep their housing units up to the standards in the Housing Code, and can enforce the
16 Code by issuing notices of violation and seeking administrative penalties. This ordinance
17 complements those efforts, by allowing the persons most directly affected by substandard
18 housing conditions – the occupants of those units – to file lawsuits to enforce their rights
19 under the Housing Code. Tenants should have full recourse to the judicial system if they
20 experience harm due to substandard conditions. But in allowing tenants to file lawsuits on
21 their own behalf to address specific harms that they have been experiencing, the City does
22 not intend for such lawsuits to preclude, or in any way undermine, the City's ability to pursue
23 its own enforcement efforts on behalf of specific tenants or the general public.

24 (b) This ordinance is particularly necessary where children, seniors, and persons
25 with disabilities have been exposed to poor housing conditions. Research has shown that

1 living in substandard housing conditions, for these populations especially, is linked with poorer
2 cognitive and socioemotional health, causing deficits in executive functioning, reading, math
3 performance, and socioemotional functioning. Substandard conditions can also cause toxic
4 levels of stress, increased risk of depression and anxiety, and poor physical and socio-
5 emotional health. The Board of Supervisors finds it is appropriate and in the public interest to
6 allow a trier of fact to award up to triple damages in those situations where a child, senior, or
7 person with a disability has experienced such harms.

8
9 Section 2. Chapter 2 of the Housing Code is hereby amended by revising Section 204,
10 to read as follows:

11 **SEC. 204. VIOLATIONS.**

12 * * * *

13 (c) **Presumption of Noncompliance with Order; Civil Penalty for Violation of**
14 **Code; Civil Actions.**

15 * * * *

16 (3) Any person residing in a housing unit, other than a unit in a building zoned as a single-
17 family residence, where any of the conditions described in Section 1001 of this Code are present and
18 pose a substantial risk to the occupants' health and safety, may institute a civil action under this
19 subsection (c)(3) against the unit owner, subject to the following:

20 (A) The plaintiff must provide the unit owner (or the owner's authorized agent, such
21 as a master tenant or property manager) advance written notice of the alleged violation.

22 (B) The plaintiff must provide the City Attorney's Office written notice of its intent to
23 file the civil action at least 60 days before doing so; provided, however, that the City Attorney's Office
24 may authorize the plaintiff to file before the close of this 60-day period if the City Attorney's Office
25 determines in its sole and absolute discretion that the matters alleged pose a serious and imminent risk

1 to the unit occupants and that a waiver of the 60-day period is appropriate and will further the public
2 interest. The filing of an action by the City Attorney shall not affect or impair the right of a plaintiff to
3 file a civil action under this subsection (c)(3).

4 (C) A plaintiff who prevails in an action under this subsection (c)(3) shall be entitled
5 to actual damages (including damages for mental or emotional distress); and if any occupants of the
6 substandard unit are younger than 18, older than 65, or disabled within the meaning of Section
7 12955.3 of the California Government Code, then the trier of fact may award up to three times the
8 actual damages experienced by those occupants. A plaintiff who prevails in an action under this
9 subsection (c)(3) shall also be entitled to recover costs and attorney's fees. A plaintiff who prevails in
10 such an action may also obtain a court order requiring compliance with the requirements of Section
11 1001, except that the court may not order an occupant to vacate a building or portion thereof solely
12 based on a violation of Section 1001, subsection (o).

13 (D) A dismissal or judgment against a plaintiff in an action brought under this
14 subsection (c)(3) shall not preclude an action by the City Attorney. Further, this subsection (c)(3) shall
15 not limit any other right or remedy otherwise available to any party, including the City, and shall not
16 create a duty or obligation on the part of the City.

17 ~~(4)(3)~~ The remedies in this Section 204 are in addition to any other remedies
18 provided by law. No provision in this Section shall preclude prosecution of actions for civil and
19 criminal penalties concurrently, sequentially or individually.

20 * * * *

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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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Section 4. 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.

Section 5. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ MANU PRADHAN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Housing Code - Tenant Enforcement of Habitability Requirements]

Ordinance amending the Housing Code to authorize occupants of residential dwelling units to sue to enforce the prohibition on substandard housing conditions.

Existing Law

Section 1001 of the Housing Code defines the basic habitability standards for housing in San Francisco. If a unit does not meet these standards, the Department of Building Inspection can issue notices of violations and seek penalties against the unit owner. The Housing Code does not authorize private parties to file lawsuits over Section 1001 violations.

Amendments to Current Law

The ordinance would allow a unit occupant (unless the unit is in a building zoned as a single-family residence) to sue the unit owner if the unit does not meet the standards in Section 1001 and poses a substantial risk to the occupants' health and safety. The occupant would need to give the owner and the City advance notice of the lawsuit. An occupant who prevailed in the lawsuit could get attorneys' fees, an order that the owner must remedy the violation, and/or actual damages. If any of the occupants were younger than 18 or older than 65 or disabled, then the owner could have to pay up to three times the actual damages experienced by those occupants.

Background Information

The ordinance does not affect existing remedies that the City may have against owners of substandard housing. Nor does it affect other remedies that an occupant may have against an owner of substandard housing.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor inquires..."
- 5. City Attorney Request
- 6. Call File No. from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: