

File No. 140096

Committee Item No. 5

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date March 17, 2014

Board of Supervisors Meeting Date \_\_\_\_\_

### Cmte Board

- |                                     |                          |                                              |
|-------------------------------------|--------------------------|----------------------------------------------|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU                                          |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

OTHER (Use back side if additional space is needed)

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Completed by: Andrea Ausberry Date March 12, 2014

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

[Administrative Code - Tenant Relocation Assistance Payment]

**Ordinance amending the Administrative Code, to mitigate adverse impacts of tenant evictions to provide that when residential units are withdrawn from the rental market under the Ellis Act, each relocated tenant is entitled to the greater of the existing rent relocation payment, or the difference between the tenant's current rent and the prevailing rent for a comparable apartment in San Francisco over a two year period.**

**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. The Administrative Code is hereby amended by revising Section 37.9A to read as follows:

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

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

\* \* \* \*

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

\* \* \* \*

1           **(3) On or After** ~~(Effective Date of Ordinance Amendments)~~ **February 20, 2005.** Where a  
2 landlord seeks eviction based upon Section 37.9(a)(13), and the notice of intent to withdraw  
3 rental units is filed with the Board on or after ~~(effective date of ordinance amendments)~~ **February 20,**  
4 **2005,** relocation payments shall be paid to the tenants as follows:

5           (A) Subject to Subsections 37.9(e)(3)(B)(C) and (D) below, each tenant shall be  
6 entitled to receive \$4,500, one-half of which shall be paid at the time of the service of the  
7 notice of termination of tenancy, and one-half of which shall be paid when the tenant vacates  
8 the unit;

9           (B) In the event there are more than three tenants in a unit, the total relocation  
10 payment shall be \$13,500.00, which shall be divided equally by the number of tenants in the  
11 unit; and

12           (C) Notwithstanding Subsections 37.9A(e) (3)(A) and (B), any tenant who, at the  
13 time the notice of intent to withdraw rental units is filed with the Board, is 62 years of age or  
14 older, or who is disabled within the meaning of Section 12955.3 of the California Government  
15 Code, shall be entitled to receive an additional payment of \$3,000.00, \$1,500.00 of which  
16 shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from  
17 the tenant of entitlement to the relocation payment, and \$1,500.00 of which shall be paid  
18 when the tenant vacates the unit.

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

1 (E) Notwithstanding Subsections 37.9A(e)(3)(A) – (D), as of 90 days after the effective  
2 date of the ordinance creating this subsection (E) (Ordinance No. \_\_\_\_\_), each tenant shall be entitled to  
3 the greater of:

4 (i) the payment specified in Subsections 37.9A(e)(3)(A) – (D); or

5 (ii) an amount equal to the difference between the unit's rental rate at the time the landlord  
6 files the notice of intent to withdraw rental units with the Board, and the market rental rate for a  
7 comparable unit in San Francisco as determined by the Controller's Office, multiplied to cover a two-  
8 year period, and divided equally by the number of tenants in the unit (the "Rental Payment  
9 Differential"). The landlord shall pay one-half of the Rental Payment Differential at the time of the  
10 service of the notice of termination of tenancy, and the remaining one-half when the tenant vacates the  
11 unit. The Controller shall establish a San Francisco Rental Payment Differential Schedule within 90  
12 days of the effective date of the ordinance creating this subsection (E) (Ordinance No. \_\_\_\_\_), and  
13 thereafter by March 1 of each calendar year. The Controller shall provide such Schedule to the Rent  
14 Board, which shall make the Schedule publicly available on the Rent Board's website and at the Rent  
15 Board office. In addition to receiving the Rental Payment Differential, any tenant who qualifies for  
16 payment under Subsections 37.9A(e)(3)(C) as adjusted by (D) shall also receive that payment.

17 (F) Any tenant who has received a notice of termination of tenancy, but who has not yet  
18 vacated the unit by the operative date of the ordinance creating subsection (E) and this subsection (F)  
19 (Ordinance No. \_\_\_\_\_), shall be entitled to the Rental Payment Differential, reduced by any payment the  
20 tenant has received under Subsections 37.9A(e)(3)(C) as adjusted by (D), upon vacating the unit.

21 (4) Any notice to quit pursuant to Section 37.9(a)(13) shall notify the tenant or  
22 tenants concerned of the right to receive payment under Subsections 37.9A(e)(1) or (2) or (3)  
23 and the amount of payment which the landlord believes to be due.

24 (f) Notice to Rent Board; Recordation of Notice; Effective Date of Withdrawal.

1 (1) Any owner who intends to withdraw from rent or lease any rental unit shall  
2 notify the Rent Board in writing of said intention. Said notice shall contain statements, under  
3 penalty of perjury, providing information on the number of residential units, the address or  
4 location of those units, the name or names of the tenants or lessees of the units, and the rent  
5 applicable to each residential rental unit. Said notice shall be signed by all owners of record of  
6 the property under penalty of perjury and shall include a certification that actions have been  
7 initiated as required by law to terminate existing tenancies through service of a notice of  
8 termination of tenancy. The notice must be served by certified mail or any other manner  
9 authorized by law prior to delivery to the Rent Board of the notice of intent to withdraw the  
10 rental units. Information respecting the name or names of the tenants, the rent applicable to  
11 any unit, or the total number of units, is confidential and shall be treated as confidential  
12 information by the City for purposes of the Information Practices Act of 1977, as contained in  
13 Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil  
14 Code. The City shall, to the extent required by the preceding sentence, be considered an  
15 "agency," as defined by Subdivision (b) of Section 1798.3 of the Civil Code.

16 (2) Prior to the effective date of withdrawal of rental units under this Section, the  
17 owner shall cause to be recorded with the County Recorder a memorandum of the notice  
18 required by Subsection (f)(1) summarizing its provisions, other than the confidential  
19 provisions, in substantially the following form:

20 Memorandum of Notice  
21 Regarding Withdrawal of  
22 Rental Unit From Rent or Lease

23 This memorandum evidences that the undersigned, as the owner(s) of the property  
24 described in Exhibit A attached, has filed a notice, whose contents are certified under penalty  
25 of perjury, stating the intent to withdraw from rent or lease all units at said property, pursuant

1 to San Francisco Administrative Code Section 37.9A and the Ellis Act (California Government  
2 Code Sections 7060 et seq.).

3 \_\_\_\_\_  
4 (Signature)

5 (3) For a notice of intent to withdraw rental units filled with the Rent Board on or  
6 before December 31, 1999, the date on which the units are withdrawn from rent or lease for  
7 purposes of this Chapter and the Ellis Act is 60 days from the delivery in person or by first-  
8 class mail of the Subsection (f)(1) notice of intent to the Rent Board.

9 (4) For a notice of intent to withdraw rental units filed with the Rent Board on or  
10 after January 1, 2000, the date on which the units are withdrawn from rent or lease for  
11 purposes of this Chapter and the Ellis Act is 120 days from the delivery in person or by first-  
12 class mail of the Subsection (f)(1) notice of intent to the Rent Board. Except that, if the tenant  
13 or lessee is at least 62 years of age or disabled as defined in Government Code § 12955.3,  
14 and has lived in his or her unit for at least one year prior to the date of delivery to the Rent  
15 Board of the Subsection (f)(1) notice of intent to withdraw, then the date of withdrawal of the  
16 unit of that tenant or lessee shall be extended to one year after the date of delivery of that  
17 notice to the Rent Board, provided that the tenant or lessee gives written notice of his or her  
18 entitlement to an extension of the date of withdrawal to the owner within 60 days of the date of  
19 delivery to the Rent Board of the Subsection (f)(1) notice of intent to withdraw. In that  
20 situation, the following provisions shall apply:

21 (A) The tenancy shall be continued on the same terms and conditions as existed  
22 on the date of delivery to the Rent Board of the notice of intent to withdraw, subject to any  
23 adjustments otherwise available under Administrative Code Chapter 37.

24 (B) No party shall be relieved of the duty to perform any obligation under the  
25 lease or rental agreement.

1 (C) The owner may elect to extend the date of withdrawal on any other units up  
2 to one year after date of delivery to the Rent Board of the Subsection (f)(1) notice of intent to  
3 withdraw, subject to Subsections (f)(4)(A) and (B).

4 (D) Within 30 days of the notification by the tenant or lessee to the owner of his  
5 or her entitlement to an extension of the date of withdrawal, the owner shall give written notice  
6 to the Rent Board of the claim that the tenant or lessee is entitled to stay in their unit for one  
7 year after the date of delivery to the Rent Board of the Subsection (f)(1) notice of intent to  
8 withdraw.

9 (E) Within 90 days of the date of delivery to the Rent Board of the notice of  
10 intent to withdraw, the owner shall give written notice to the Rent Board and the affected  
11 tenant or lessee of the following:

12 (i) Whether or not the owner disputes the tenant's claim of extension;

13 (ii) The new date of withdrawal under Section 37.9A(f)(4)(C), if the owner  
14 does not dispute the tenant's claim of extension; and,

15 (iii) Whether or not the owner elects to extend the date of withdrawal to other  
16 units on the property.

17 (5) Within 15 days of delivery of a Subsection (f)(1) notice of intent to the Rent  
18 Board, the owner shall provide notice to any tenant or lessee to be displaced of the following:

19 (A) That the Rent Board has been notified pursuant to Subsection (f)(1);

20 (B) That the notice to the Rent Board specified the name and the amount of rent  
21 paid by the tenant or lessee as an occupant of the rental unit;

22 (C) The amount of rent the owner specified in the notice to the Rent Board;

23 (D) The tenant's or lessee's rights to reoccupancy and to relocation assistance  
24 under Subsections 37.9A(c) and (e); and  
25

1 (E) The rights of qualified elderly or disabled tenants as described under  
2 Subsection (f)(4), to extend their tenancy to one year after the date of delivery to the Rent  
3 Board of the Subsection (f)(1) notice of intent to withdraw.

4 (6) Within 30 days after the effective date of withdrawal of rental units under this  
5 Section 37.9A, the Rent Board shall record a notice of constraints with the County Recorder  
6 which describes the property and the dates of applicable restrictions on the property under  
7 this Section.

8  
9 \* \* \* \*

10  
11  
12 (i) This Section 37.9A is enacted principally to exercise specific authority provided  
13 for by Chapter 12.75 of Division 7 of Title 1 of the California Government Code, originally  
14 enacted by Stats. 1985, Ch. 1509, Section 1 (the Ellis Act, California Government Code  
15 Sections 7060 et seq.). In the case of any amendment to Chapter 12.75 or any other provision  
16 of State law which amendment is inconsistent with this Section, this Section shall be deemed  
17 to be amended to be consistent with State law, and to the extent it cannot be so amended  
18 shall be interpreted to be effective as previously adopted to the maximum extent possible.

19  
20  
21 Section 2. Effective Date and Operative Date.

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

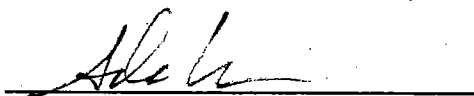


1 (b) As stated in Administrative Code Section 37.9A(e)(3)(E), this ordinance shall  
2 become operative 90 days after its effective date.  
3  
4

5 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
6 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
7 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
8 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
9 additions, and Board amendment deletions in accordance with the "Note" that appears under  
10 the official title of the ordinance.  
11  
12

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

15 By:

  
16 ADINE K. VARAH  
17 Deputy City Attorney

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20  
21  
22  
23  
24  
25

## LEGISLATIVE DIGEST

[Administrative Code - Tenant Relocation Assistance Payment]

**Ordinance amending the Administrative Code, to mitigate adverse impacts of tenant evictions to provide that when residential units are withdrawn from the rental market under the Ellis Act, each relocated tenant is entitled to the greater of the existing rent relocation payment, or the difference between the tenant's current rent and the prevailing rent for a comparable apartment in San Francisco over a two year period.**

### Existing Law

Section 37.9A of the Administrative Code, part of San Francisco's rent control laws, requires property owners to pay relocation assistance to tenants evicted under California's Ellis Act, with the payment amounts adjusted annually. Under the Ellis Act, landlords may withdraw their properties from the rental market, even if this results in evicting tenants. Cal. Gov. Code § 7060. But the Ellis Act reserves to local governments the power to "mitigate any adverse impact on persons displaced by reason of the withdrawal . . . ." *Id.* at § 7060.1(c). Under the Administrative Code, owners invoking the Ellis Act must pay approximately \$5,265 per displaced tenant, with a cap of approximately \$15,795 per unit (and with an extra payment of \$3,510, as annually adjusted, for any displaced tenant who is age 62 or older or who has a disability).

### Amendments to Current Law

The proposed ordinance would require that landlords pay tenants displaced by Ellis Act evictions two years' worth of the differential between the unit's current rent and the market rent for a comparable unit. For multiple tenants, this two-year differential amount would be divided equally among them. The ordinance would preserve the additional \$3,510 payment, as annually adjusted, for any tenant who is age 62 or older or who has a disability.

Any tenant who has not yet vacated the unit by the operative date of the ordinance shall be entitled to receive the payment under the formula in the proposed ordinance.

If the total amount under the formula in the proposed ordinance were less than the amount payable under the existing formula, the existing formula in the Administrative Code would apply, so that the existing formula sets a floor.

### Background Information

In light of the hardships faced by the increasing number of evicted tenants and the increased difficulty in finding affordable housing following eviction, this ordinance is designed to better mitigate the adverse impacts for people displaced by Ellis Act evictions.

BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing  
Carla Johnson, Director, Mayor's Office of Disability  
Darlene Wolf, Executive Director, Rent Board  
Ben Rosenfield, Controller, Office of the Controller  
Carmen Chu, Assessor-Recorder, Office of the Assessor-Recorder  
Barbara Garcia, Director, Department of Public Health

FROM: Andrea Ausberry, Clerk, Land Use and Economic Development Committee  
Board of Supervisors

DATE: February 19, 2014

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by Supervisor Campos on February 4, 2014:

**File No. 140096**

**Ordinance amending the Administrative Code, to mitigate adverse impacts of tenant evictions to provide that when residential units are withdrawn from the rental market under the Ellis Act, each relocated tenant is entitled to the greater of the existing rent relocation payment, or the difference between the tenant's current rent and the prevailing rent for a comparable apartment in San Francisco over a two year period.**

If you have any additional 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.

c: Eugene Flannery, Mayor's Office of Disability  
Monique Zmuda, Office of the Controller  
Trish Prashad, Office of the Assessor-Recorder  
Colleen Chawla, Department of Public Health

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

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

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Campos, Kim, Avalos, Mar

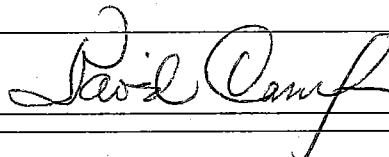
**Subject:**

Administrative Code - Tenant Relocation Assistance Payment

**The text is listed below or attached:**

[Empty box for text listing]

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

140096