

SF landlords' attempts to pass some charges on to tenants face opposition

By Dominic Fracassa

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Amina Rubio thought little of the notice she received in the mail in October 2016 informing her that the Powell Street apartment building where she's lived for nearly 20 years was under new management.

At the time, the name of her building's new owners, Veritas Investments and its subsidiary, Greentree Property Management — one of the largest landlords in San Francisco — didn't ring any bells, so it was a fact of life easily tucked away in the back of her mind.

But Rubio's indifference toward her new property manager was shattered when, in September, she received another notice, this one informing her that her rent, which had risen just \$113 — to \$543 — since 1998, would rise 31 percent to \$714, effective immediately. On her already modest Social Security income and tight household budget, the rent hike came as an overwhelming blow.

"I was in shock, just crying. I went into a three-day depression. It was devastating. I couldn't even function," Rubio said.

The steep rent increases stemmed from of a number of new charges, including fees for operating and maintaining the building that Greentree was passing on to the building's rent-controlled tenants, who like Rubio, were paying far below market rates for their apartments on the south side of Nob Hill.

In San Francisco, like many other cities, when the various costs of running an apartment building outpace the [annual allowable rent increases](#) set by the city's Rent Board, landlords can request to pass on a portion of those expenses to their tenants.

But in recent years, a pattern involving these so-called pass-through expenses has emerged that's causing alarm among tenants-rights organizations. Landlords, particularly large property management companies, increasingly are passing on the costs of their debt service — payments on the loan taken out to buy the building — and property taxes to tenants.

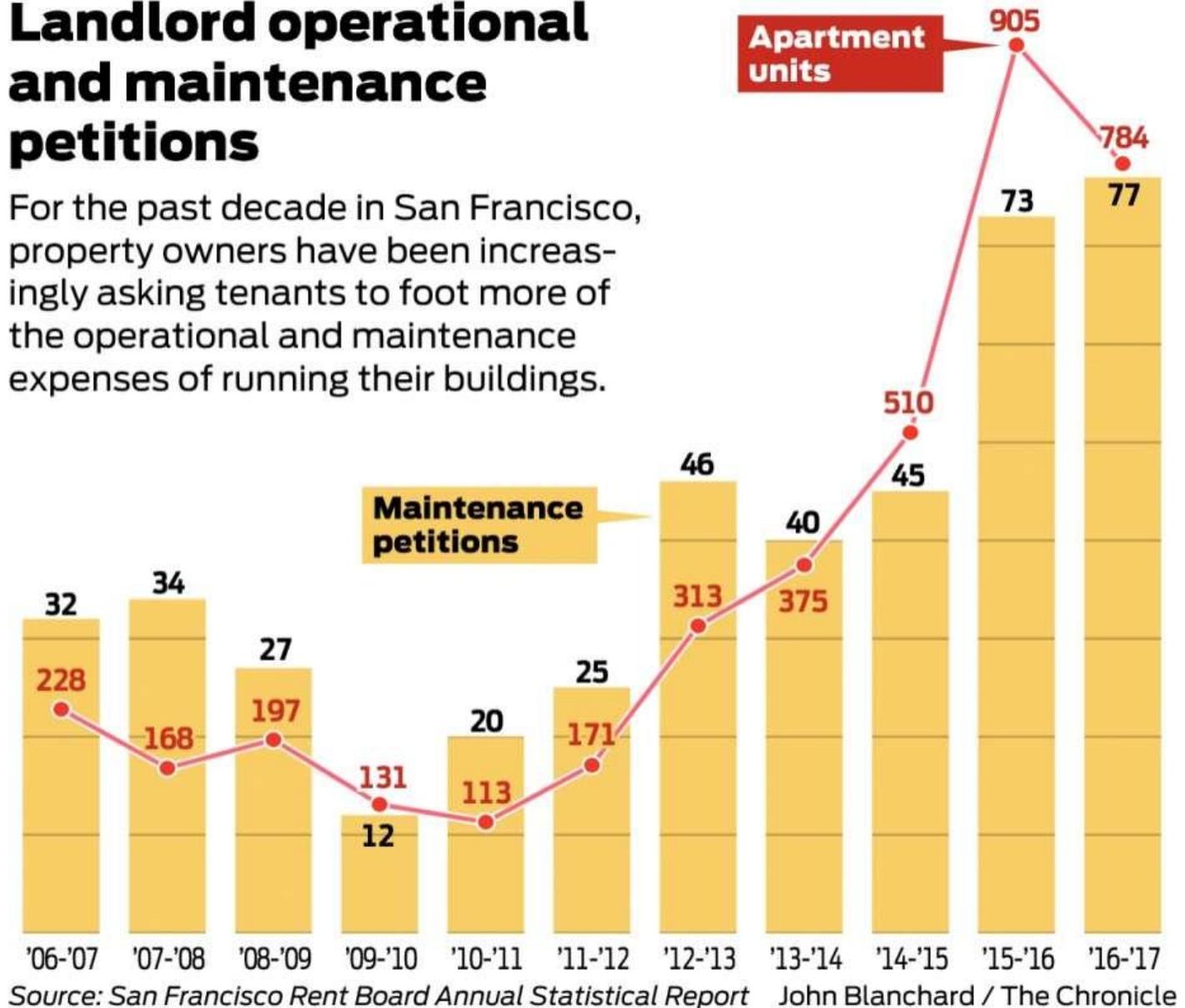
That could soon change. Tenants-rights groups, including the Housing Rights Committee of San Francisco, the Tenderloin Housing Clinic, the San Francisco Tenants Union and Legal Assistance to the Elderly, have secured a commitment from Supervisor Sandra Lee Fewer to sponsor legislation to eliminate debt-service and property tax pass-throughs.

“It's time for San Francisco to eliminate debt service as a justification for rent increases,” Fewer said. “Large corporate landlords that are purchasing residential buildings don't need incentives to immediately burden their rent-controlled tenants with exorbitant rent increases. By closing this loophole, we will help keep our rent-controlled housing affordable and prevent greed-fueled displacement.”

According to [data](#) from the city's Rent Board, the number of operational and maintenance pass-through petitions filed by landlords has jumped over the past five fiscal years. Between the 2006 and 2012 fiscal years, the number of petitions filed by landlords averaged 25 per year. From the 2012-13 fiscal year to the present, landlords have averaged 56 petitions per year. The number of units potentially affected by those petitions has risen sharply as well, from an average of 168 units to 577 over the same periods.

Landlord operational and maintenance petitions

For the past decade in San Francisco, property owners have been increasingly asking tenants to foot more of the operational and maintenance expenses of running their buildings.



Landlords may bundle together a variety of operational and maintenance costs when asking the Rent Board's permission to raise rents above the annual allowable amount for rent-controlled units, and the board's staff examines those expenses in the aggregate. Landlords have to show that the costs of operating the building jumped by more than the annual allowable amount for two consecutive 12-month periods. These pass-throughs can permanently

increase a tenant's base rent by up to 7 percent under San Francisco's rent ordinance.

But by far, said Robert Collins, the Rent Board's executive director, most petitions are being filed in order to have tenants help pay for their landlord's biggest expense: payments on the loan taken out to buy the building and for the property taxes levied on it.

"Those categories are the big ones," Collins said. Processing operational and maintenance pass-through requests from landlords "is a significant portion of our workload at this point," he said.

In Rubio's building, 21 out of 34 total units are subject to a range of fee increases, including the permanent debt service and property tax pass-throughs. Twelve of the remaining apartments are either not subject to rent control or are being used for sanctioned [short-term rental programs](#). The last unit is occupied by a resident manager, according to Greentree.

San Francisco is the only major city in the Bay Area that allows landlords to pass through their debt obligations to tenants. The practice is prohibited in Berkeley, Oakland and San Jose, which did away with its debt-service pass-throughs last year.

Most operational and maintenance pass-throughs "are typically filed after a change of ownership, when a new owner has reassessed debt service and property taxes," Collins said. "Those also tend to be biggest costs for property owners."

Critics contend that the ease with which landlords — particular large property management companies — can make the case for such pass-throughs is akin to a baked-in charge levied against rent-controlled tenants.

“In this time of incredible pressure in the rental market, in my opinion, the process is being increasingly used to raise rents just to raise rents, not because it’s really necessary to support the true cost of operating and maintaining the building,” said Polly Marshall, a longtime pro-tenant Rent Board commissioner. The board is composed of pro-tenant, pro-landlord and neutral representatives who are appointed by the mayor.

Rubio said she feels like she is being forced to effectively help her landlord make its mortgage payments, “like I’m paying someone else’s credit card bill.”

Many landlords and their advocates agree that debt service and property tax pass-throughs are tools used mostly by larger property management companies. But throwing them out, they say, would disproportionately impact smaller, “mom-and-pop” owners who rely on the pass-throughs to keep themselves solvent.

“A lot of these landlords are barely making it on the income from their properties,” said Calvin Abe, a pro-landlord Rent Board commissioner. “I would oppose doing away with any of those pass-throughs because they’re essential for landlords in general, especially the smaller ones. They need it.”

Charley Goss, government affairs manager for the San Francisco Apartment Association, which represents property owners, also said tenants facing financial hardship may apply for an exemption to a pass-through rent hike.

“You want to protect tenants who need protection with hardship petitions, but there has to be a give-and-take with the ability to recoup costs and investments in the property,” Goss said.

When it comes to the Powell Street building where Rubio lives, Alex Clemens, a Veritas spokesman, pointed to a number of “major improvements” the company has made to the property since purchasing it, including a new roof,

renovated common areas, and ongoing upgrades to the building's electrical and gas systems.

“What little we recoup through the (operational and maintenance) pass-throughs is a small fraction of our costs of the major improvements we've made,” Clemens said in an email.

Rubio and her neighbors are still entitled to a hearing on the pass-throughs, as well as an appeal, but she's not optimistic much will come of it. She took out a \$5,000 loan to cover rent and other expenses for the next few months but said she “knows that's only going to stretch so far.”

“It's difficult to understand how these charges can even be justified,” she said. “I feel like this is a moral issue.”

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