BOARD of SUPERVISORS

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MEMORANDUM

TO: Robert Collins, Executive Director, Rent Board
Kate Hartley, Director, Mayor's Office of Housing and Community Development
William Scott, Police Chief, Police Department
Vicki Hennessy, Sheriff, Sheriff's Department
George Gascón, District Attorney, Office of the District Attorney
Jeff Adachi, Public Defender, Office of the Public Defender

FROM: Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: August 2, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Ronen on July 24, 2018:

File No. 180735

Ordinance amending the Administrative Code to prohibit landlords of single-family homes and condominiums covered by existing eviction controls from circumventing eviction controls through rent increases; and to clarify that a rent increase intended to defraud, intimidate, or coerce the tenant into vacating such a rental unit may qualify as tenant harassment.

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: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development
Rowena Carr, Police Department
Asja Steeves, Police Department
Theodore Toet, Sheriff's Department
Katherine Gorwood, Sheriff's Department
Nancy Crowley, Sheriff's Department
Cristine Soto DeBerry, Office of the District Attorney
Maxwell Szabo, Office of the District Attorney

[Administrative Code - Harassment of Tenants in Single-Family Units Through Rent Increases]

Ordinance amending the Administrative Code to prohibit landlords of single-family homes and condominiums covered by existing eviction controls from circumventing eviction controls through rent increases; and to clarify that a rent increase intended to defraud, intimidate, or coerce the tenant into vacating such a rental unit may qualify as tenant harassment.

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 ~~strikethrough 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.

(a) San Francisco is experiencing a crisis shortage of affordable housing, which is contributing to a high rate of evictions and the displacement of low- and moderate-income tenant households. The Residential Rent Stabilization and Arbitration Ordinance (Admin. Code Ch. 37) addresses these concerns by imposing rent control to regulate the amount by which a landlord may increase the rent on an existing tenant; and by imposing eviction controls to regulate the bases for evictions and to mitigate the impact of evictions on tenants. The eviction controls also include provisions to regulate against tenant harassment, which has been on the rise during the housing crisis.

(b) The Costa-Hawkins Rental Housing Act, California Civil Code Sections 1954.50 et seq., guarantees the owner of a separately alienable property (hereafter, "single-family home") to raise the rent on an existing tenant, but also states, at Section 1954.52(c), that "[n]othing in this section shall be construed to affect the authority of a public entity that may otherwise exist to regulate or monitor the basis for eviction." The City has long exercised this authority, by regulating evictions and tenant harassment, and these regulations apply to all rental units covered by the Rent Ordinance including single-family homes.

(c) In recent years, San Francisco has witnessed multiple cases where the owner of a single-family home attempted to circumvent eviction controls and coerce a tenant to vacate a rental unit by means of an exorbitant rent increase. On March 16, 2015, the *San Francisco Chronicle* reported that the landlord of a two-unit building subject to rent control had modified one of the units so that it was no longer habitable, claimed the building was a single-family home, and then increased the rent by 315% to far above market rates for comparable units in the area for the purpose of forcing the tenant to vacate the unit. The landlord intended to move into the unit herself, and therefore, under the Rent Ordinance, was required to perform an owner move-in ("OMI") eviction and comply with certain obligations including the duty to provide the tenant a relocation payment. The landlord did not expect to collect the new rent from the tenant, but rather just wanted to coerce the tenant into leaving. In a similar case from 2017, the owner of a two-unit building allegedly removed one of the units, claimed the building was a single-family home, and then raised the rent to far above market rate by means of a 250% rent increase in an attempt to circumvent the OMI requirements and coerce the tenant into vacating the unit. Tenant advocates estimate that many similar cases arise in San Francisco every year.

(d) Owners of single-family homes have the right to raise rents on existing tenants. This ordinance merely clarifies that these owners, like any owner of any other rental housing

in the City, do not have the right to harass tenants in bad faith in order to circumvent local eviction controls, and that such harassment can occur through rent increases that are imposed in bad faith.

Section 2. The Administrative Code is hereby amended by revising Sections 37.10A and 37.10B, to read as follows:

SEC. 37.10A. MISDEMEANORS, AND OTHER ENFORCEMENT PROVISIONS.

* * * *

(i) It shall be unlawful for a landlord to endeavor to recover possession of a rental unit as defined in Section 37.2(r)(7) by means of a rent increase that is imposed in bad faith with an intent to defraud, intimidate, or coerce the tenant into vacating the rental unit in circumvention of Section 37.9(a), 37.9A, 37.9B, or 37.9C.

~~(j)~~(i) Any person who violates Section 37.10A(a), (b), (c), (f), or (h) is guilty of a misdemeanor and shall be punished by a mandatory fine of $1,000, and in addition to such fine may be punished by imprisonment in the County Jail for a period of not more than six months. Each violation shall constitute a separate offense.

SEC. 37.10B. TENANT HARASSMENT.

(a) No landlord, and no agent, contractor, subcontractor, or employee of the landlord, shall do any of the following, in bad faith or with ulterior motive or without honest intent:

* * * *

(5) Influence or attempt to influence a tenant to vacate a rental housing unit through fraud, intimidation or coercion*; for example and without limitation, by endeavoring to recover possession of a rental unit as defined in Section 37.2(r)(7) by means of a rent increase that is*

imposed with an intent to defraud, intimidate, or coerce the tenant into vacating the rental unit in circumvention of Section 37.9(a), 37.9A, 37.9B, or 37.9C.

* * * *

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

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. Application and Enforcement. This ordinance is intended to be interpreted and applied consistent with prior judicial orders and decisions concerning Administrative Code Section 37.10B, including but not limited to page 1, lines 12-14, of the May 19, 2009, Order in *Larson v. City and County of San Francisco*, S.F. Super. Case No. 509-085 (holding that the phrase "without ulterior motive and with honest intent" is severed from Section 37.10B); and *Larson v. City and County of San Francisco* (2011) 192 Cal. App. 4th 1263 (holding that the Rent Board is precluded from making rent reductions under Section 37.10B(a)(5)).

Section 6. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

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

By: 
MANU PRADHAN
Deputy City Attorney

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FILE NO. 180735

REVISED LEGISLATIVE DIGEST

(Substituted; 7/24/2018)

[Administrative Code - Harassment of Tenants in Single-Family Units Through Rent Increases]

Ordinance amending the Administrative Code to prohibit landlords of single-family homes and condominiums covered by existing eviction controls from circumventing eviction controls through rent increases; and to clarify that a rent increase intended to defraud, intimidate, or coerce the tenant into vacating such a rental unit may qualify as tenant harassment.

Existing Law

State law gives the owner of a separately alienable property (hereafter, "single-family home") the right to raise rents on existing tenants. But a single-family home that is exempt from rent control can be subject to the rules in the Rent Ordinance concerning evictions and tenant harassment. Admin. Code § 37.2(r)(7). Thus, the Rent Ordinance already prohibits landlords of all types of rental units, including single-family homes, from evicting their tenants without just cause, and requires that all landlords who have performed owner move-ins and other types of no-fault evictions take certain actions to mitigate the impact of those evictions. *Id.* §§ 37.9(a), 37.9A, 37.9B, and 37.9C. The Rent Ordinance also provides that no landlord shall, in bad faith, influence a tenant to vacate any type of rental unit through fraud, intimidation, or coercion. *Id.* § 37.10B.

Amendments to Current Law

The proposed ordinance would amend the Rent Ordinance to state that endeavoring to recover possession of a single-family home by means of a rent increase that is imposed in bad faith with an intent to defraud, intimidate, or coerce the tenant into vacating the rental unit in circumvention of the above-described eviction controls may qualify as tenant harassment.

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