

File No. 230560 Committee Item No. 2
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
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Committee: Land Use and Transportation Committee Date May 22, 2023

Board of Supervisors Meeting Date _____

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Completed by: Erica Major Date May 18, 2023

Completed by: Erica Major Date _____

1 [Administrative Code - Displaced Tenant Preference in City Affordable Housing]

2

3 **Ordinance amending the Administrative Code to expand the Displaced Tenant**
4 **Preference in City Affordable Housing Programs to cover tenants where 1) the tenant’s**
5 **unlawful unit has been removed as a residential unit by a written approval by the**
6 **Planning Commission of the demolition, conversion, or merger of the residential unit,**
7 **or denial by the Planning Commission of an application to legalize the unlawful unit;**
8 **and 2) displacement has been caused by flooding.**

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

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

15

16 Section 1. Chapter 47 of the Administrative Code is hereby amended by revising
17 Sections 47.2 and 47.3, to read as follows:

18

19 **SEC. 47.2. DEFINITIONS.**

20 * * * *

21 "Displaced Tenant" shall mean any person who applies to MOHCD and who MOHCD
22 determines qualifies under any of the categories below. If a person disputes MOHCD's
23 determination that *they he or she does* not qualify as a "Displaced Tenant" under this Section
24 47.2, such person shall have the right to a hearing conducted by a Rent Board Administrative
25

1 Law Judge (as defined in Administrative Code Section 37.2(f)), with MOHCD as the
2 responding party:

3 Category 1: A tenant residing in San Francisco who on or after January 1, 2010
4 receives a Notice of Intent to Withdraw Rental Units ("Notice of Intent to Withdraw") pursuant
5 to the Ellis Act, California Government Code Sections 7060 et seq., and corresponding
6 provisions of the Rent Ordinance. MOHCD shall establish a process for a tenant to verify
7 ~~their~~~~his or her~~ status as a "Displaced Tenant" under Category 1 that, at a minimum, shall
8 require a tenant to show: (a) the landlord filed with the Rent Board a Notice of Intent to
9 Withdraw; and (b) the tenant either: (1) is listed on the Notice of Intent to Withdraw; (2) is
10 listed on the lease for the unit in question; or (3) has other evidence sufficient to establish, in
11 MOHCD's reasonable discretion, that ~~he or she~~ the tenant resided in the unit at the time the
12 Notice of Intent to Withdraw was filed. If the Rent Board grants a landlord's request to rescind
13 the Notice of Intent to Withdraw before a tenant moves out of ~~his or her~~ their unit, such tenant
14 shall no longer qualify as a "Displaced Tenant."

15 Category 2: A tenant residing in San Francisco who on or after January 1, 2010
16 receives a notice that ~~his or her~~ their landlord plans to recover possession of the unit under
17 Section 37.9(a)(8) of the Rent Ordinance. MOHCD shall establish a process for a tenant to
18 verify ~~his or her~~ their status as a "Displaced Tenant" under Category 2 that, at a minimum, shall
19 require a tenant to show: (a) the landlord filed with the Rent Board the notice to vacate, as
20 required under Rent Ordinance Section 37.9(c); and (b) the tenant either: (1) is listed on the
21 notice to vacate; (2) is listed on the lease for the unit in question; or (3) has other evidence
22 sufficient to establish, in MOHCD's reasonable discretion, that ~~he or she~~ the tenant resided in
23 the unit at the time the notice to vacate was filed.

24 Category 3: A tenant residing in San Francisco who is required to vacate ~~his or her~~
25 their unit by a public safety official, including the San Francisco Fire Marshal and/or Building

1 Inspection official, due to fire and/or flooding, and who can provide sufficient evidence to
2 MOHCD that demonstrates that they ~~he or she~~ cannot return to the unit within a period of six
3 months from the date of the order to vacate the unit. MOHCD shall establish a process for a
4 tenant to verify ~~his or her~~ their status as a “Displaced Tenant” under Category 3 that, at a
5 minimum, shall require a tenant to show: (a) a public safety official provided an order to
6 vacate the unit to such tenant or to the owner of the unit; and (b) the tenant either: (1) is listed
7 on the order to vacate; (2) is listed on the lease for the unit in question; or (3) has other
8 evidence sufficient to establish, in MOHCD’s reasonable discretion, that ~~he or she~~ the tenant
9 resided in the unit at the time the order was provided.

10 Category 4: A tenant residing in San Francisco who is vacating the tenant’s unit
11 because MOHCD has verified that a multi-family residential property will no longer be
12 restricted to ensure affordability based on income under any regulatory agreement (including
13 a regulatory agreement based on the issuance of housing mortgage revenue bonds) or other
14 affordable housing agreement and/or recorded instrument within ~~5~~ five years, and the landlord
15 of such property has leased unrestricted residential rental units in the same building at a
16 market rent that is more than 40% of the tenant’s total annual gross household income.
17 MOHCD shall establish a process for a tenant to verify the tenant’s status as a “Displaced
18 Tenant” under Category 4 that, at a minimum, shall require the tenant to show: (a)
19 documentation of the tenant’s total gross household income on a form provided by MOHCD in
20 accordance with the Inclusionary Procedures Manual in effect at the time of application for a
21 “Displaced Tenant” housing preference; (b) evidence that market rate rent in the tenant’s
22 building will exceed 40% of the tenant’s current total annual gross household income; and (c)
23 the tenant either: (1) is listed on the lease for the unit in question; or (2) has other evidence
24 sufficient to establish, in MOHCD’s reasonable discretion, that ~~he or she~~ the tenant resides in
25 the unit at the time the landlord increased the tenant’s rent.

1 Category 5: A tenant residing in San Francisco who is vacating the tenant's unit because
2 MOHCD has verified that the tenant's unit will be removed as an unlawful residential unit based on
3 the determinations by the Planning Commission and Planning Department. MOHCD shall establish
4 a process for a tenant to verify their status as a "Displaced Tenant" under Category 5 that, at a
5 minimum, shall require (a) MOHCD to obtain from the Planning Department the written approval by
6 the Planning Commission to remove the residential unit through demolition, conversion, or merger of
7 residential units, or denial by the Planning Commission of an application to legalize the unlawful unit,
8 and (b) a tenant to provide the following: (1) due to such written approval by the Planning
9 Commission of an application to remove the residential unit through demolition, conversion, or
10 merger of residential units, or denial by the Planning Commission of an application to legalize
11 the unlawful unit, written documentation of either: (A) a notice to vacate, notice to quit, or other
12 notice from the landlord that the tenant must relinquish their leasehold interest in the residential unit
13 due to the such approval by the Planning Commission of an application to demolish, convert,
14 or merge existing residential units, or denial by the Planning Commission of an application to
15 legalize such tenant's residential unit, or (B) tenant's intent to relinquish their leasehold
16 interest in the residential unit, and (2) either: (A) the tenant is listed on the lease for the unit in
17 question; or (B) the tenant has other evidence sufficient to establish, in MOHCD's reasonable
18 discretion, that they resided in the unit at the time the landlord obtained approval from the Planning
19 Commission to demolish, convert, or merge the residential unit, or denial of an application to legalize
20 the residential unit.

21 * * * *

22
23 **SEC. 47.3. APPLICATION OF PREFERENCE.**

24 Except to the extent prohibited by an applicable State or Federal funding source,
25 MOHCD shall give, or require project sponsors or their successors in interest funded through

1 MOHCD to give, preference in occupying units or receiving assistance under all City
2 Affordable Housing Programs after any priority given under Administrative Code Section 39.4.
3 If a Veteran has been verified by MOHCD as eligible for any preference enumerated below,
4 said Veteran shall receive priority for the applicable preference over any other applicants
5 eligible for the same preference in occupying units or receiving assistance under all City
6 Affordable Housing Programs.

7 Each preference enumerated below shall be applied as of the effective date of the
8 legislation establishing each preference. The City established preference for holders of
9 Certificates of Preference in Ordinance No. 232-08, for Displaced Tenants, Category 1 in
10 Ordinance No. 277-13, for Displaced Tenants, Category 2 and Neighborhood Residents in
11 Ordinance No. 204-15, for Displaced Tenants, Category 3 (fire) and persons who live or work
12 in San Francisco in Ordinance No. 164-16, ~~and~~ for Displaced Tenants, Category 4 in
13 Ordinance No. 120-19, and for Displaced Tenants, Category 3 (flooding) and Category 5 in
14 Ordinance No. _____. The preference requirements are intended to have prospective effect
15 only, and shall not be interpreted to impair the obligations of any pre-existing contract entered
16 into by the City. Notwithstanding the prior sentence, the preference requirements shall apply
17 to contracts entered into by the City on or after the effective date of the legislation establishing
18 each preference, including contracts materially amended on or after the effective date.

19 Preference shall be given:

20 * * * *

21

22 Section 2. Effective Date; Retroactivity. This ordinance shall become effective 30 days
23 after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns
24 the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the
25

1 Board of Supervisors overrides the Mayor’s veto of the ordinance. Upon its effective date, the
2 ordinance shall be retroactive to February 16, 2023.

3

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

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11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

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By: \S\
KEITH NAGAYAMA
Deputy City Attorney
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REVISED LEGISLATIVE DIGEST

(Amended in Board, 5/16/2023)

[Administrative Code - Displaced Tenant Preference in City Affordable Housing]

Ordinance amending the Administrative Code to expand the Displaced Tenant Preference in City Affordable Housing Programs to cover tenants where 1) the tenant’s unlawful unit has been removed as a residential unit by a written approval by the Planning Commission of the demolition, conversion, or merger of the residential unit, or denial by the Planning Commission of an application to legalize the unlawful unit; and 2) displacement has been caused by flooding.

Existing Law

Current law provides preference in all City Affordable Housing Programs to certain “Displaced Tenants” residing in San Francisco under four categories: (1) tenants who have been evicted based on a Notice of Intent to Withdraw Units under the Ellis Act (California Government Code Sections 7060 *et seq*); (2) tenants who have been evicted based on an “Owner Move-In” under Administrative Code Section 37.9(a)(8); (3) tenants who are forced to vacate by a public safety official due to fire and cannot return to their units within six months; and (4) tenants who live in a multi-family residential building that is no longer restricted to ensure affordability based on income under a regulatory agreement or other affordable housing restriction, and the landlord of such residential building has increased the total annual rent to be more than 40% of the tenant’s total annual household income.

Amendments to Current Law

The purpose of this ordinance is to expand the definition of “Displaced Tenant” to tenants who will be displaced because (a) the tenant resides in an unlawful residential unit, (b) the unlawful residential unit was approved by the Planning Commission to be removed by demolition, conversion, or merger of residential units, or denial by the Planning Commission of an application to legalize the unlawful unit, and (c) due to such Planning Commission’s approval to remove the unlawful residential unit or denial of an application to legalize the unlawful unit, the tenant either has received a notice to vacate the unlawful residential unit or intends to vacate the unlawful residential unit.

This ordinance also expands the definition of “Displaced Tenant” under Category 3 to tenants who will be displaced because of flooding and cannot return to their rental unit within 6 months.

Background

FILE NO. 230560

This ordinance is a duplicate of the ordinance in Board File No. 230216. On May 16, 2023, the Board amended the duplicate to expand the definition of “Displaced Tenant” under Category 3 to tenants who will be displaced because of flooding and cannot return to their rental unit within 6 months.

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BOARD of SUPERVISORS



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MEMORANDUM

TO: Rich Hillis, Director, Planning Department
Eric D. Shaw, Director, Mayor's Office of Housing and Community Development
Christina Varner, Acting Executive Director, Rent Board

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: March 3, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Ronen on February 28, 2022.

File No. 230216

Ordinance amending the Administrative Code to expand the Displaced Tenant Preference in City Affordable Housing Programs to cover tenants where the tenant's unlawful unit has been removed as a residential unit by a written approval by the Planning Commission of the demolition, conversion, or merger of the residential unit, or denial by the Planning Commission of an application to legalize the unlawful unit.

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: Erica.Major@sfgov.org.

cc: Lydia Ely, Mayor's Office of Housing and Community Development
Brian Cheu, Mayor's Office of Housing and Community Development
Maria Benjamin, Mayor's Office of Housing and Community Development
Sheila Nickolopoulos, Mayor's Office of Housing and Community Development
Dan Sider, Planning Department
Corey Teague, Planning Department
Tina Tam, Planning Department
Lisa Gibson, Planning Department
Devyani Jain, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Elizabeth Watty, Planning Department

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 inquiries..."
- 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: