

BOARD of SUPERVISORS



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MEMORANDUM

TO: Robert Collins, Executive Director, Rent Board
Olson Lee, Director, Mayor's Office of Housing and Community
Development
Nadia Sesay, Interim Executive Director, Office of Community Investment
and Infrastructure

FROM:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: April 11, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Farrell on April 4, 2017:

File No. 170349

Ordinance amending the Administrative Code to require a landlord seeking to recover possession of a rental unit based on an owner move-in ("OMI") or relative move-in ("RMI") to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord's relative for a period of at least 36 continuous months; and to require a landlord following an OMI or RMI to provide annual documentation for 36 months showing whether the landlord or the landlord's relative is occupying the unit as his or her principal place of residence.

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
Kate Hartley, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development

1 [Administrative Code - Owner Move-In Reporting Requirements]

2

3 **Ordinance amending the Administrative Code to require a landlord seeking to recover**

4 **possession of a rental unit based on an owner move-in (“OMI”) or relative move-in**

5 **(“RMI”) to provide a declaration under penalty of perjury stating that the landlord**

6 **intends to occupy the unit for use as the principal place of residence of the landlord or**

7 **the landlord’s relative for a period of at least 36 continuous months; and to require a**

8 **landlord following an OMI or RMI to provide annual documentation for 36 months**

9 **showing whether the landlord or the landlord’s relative is occupying the unit as his or**

10 **her principal place of residence.**

11

12 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.

13 **Additions to Codes** are in *single-underline italics Times New Roman font*.

14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.

15 **Board amendment additions** are in double-underlined Arial font.

16 **Board amendment deletions** are in ~~strikethrough Arial font~~.

17 **Asterisks (* * * *)** indicate the omission of unchanged Code

18 subsections or parts of tables.

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

20 Section 1. The Administrative Code is hereby amended by revising Section 37.9 to

21 read as follows:

22 **SEC. 37.9. EVICTIONS**

23 Notwithstanding Section 37.3, this Section 37.9 shall apply as of August 24, 1980, to all

24 landlords and tenants of rental units as defined in Section 37.2(r).

25 (a) A landlord shall not endeavor to recover possession of a rental unit unless:

* * * *

1 (8) The landlord seeks to recover possession in good faith, without ulterior reasons
2 and with honest intent:

3 (i) For the landlord's use or occupancy as his or her principal residence for a
4 period of at least 36 continuous months;

5 (ii) For the use or occupancy of the landlord's grandparents, grandchildren,
6 parents, children, brother or sister, or the landlord's spouse, or the spouses of such relations,
7 as their principal place of residency for a period of at least 36 months, in the same building in
8 which the landlord resides as his or her principal place of residency, or in a building in which
9 the landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i).
10 For purposes of this Section 37.9(a)(8)(ii), the term spouse shall include domestic partners as
11 defined in San Francisco Administrative Code Sections 62.1 through 62.8.

12 * * * *

13 (v) The notice to vacate shall include a declaration executed by the landlord under
14 penalty of perjury stating that the landlord seeks to recover possession of the unit in good faith, without
15 ulterior reasons and with honest intent, for use or occupancy as the principal residence of the landlord
16 or the landlord's relative (identified by name and relation to the landlord), for a period of at least 36
17 continuous months, as set forth in subsections 37.9(a)(8)(i) and (ii). The landlord shall file the notice
18 with the Rent Board pursuant to Section 37.9(c). Evidence that the landlord did not file the notice with
19 the Rent Board, or evidence that ~~It shall be rebuttably presumed that the landlord has not acted in good~~
20 faith if the landlord or relative for whom the tenant was evicted ~~did does~~ not move into the
21 rental unit within three months of the service of the notice and occupy said unit as that person's
22 principal residence for a minimum of 36 consecutive months after moving in, shall create a
23 rebuttable presumption that the landlord has not acted in good faith, unless and until evidence is
24 introduced that would support a finding that the landlord has acted in good faith.

25 * * * *

1 (vii) A landlord who has recovered possession of a unit pursuant to Section 37.9(a)(8)
2 must complete a statement of occupancy under penalty of perjury on a form to be prepared by the Rent
3 Board. The landlord shall file the statement of occupancy with the Rent Board three months after
4 recovery of possession of the unit, and shall file updated statements of occupancy 12 months, 24
5 months, and 36 months after the recovery of possession the unit. The statement, including the updates,
6 shall identify whether the unit is (1) occupied as the principal place of residence of the landlord or the
7 relative (identified by name and relation to the landlord) for whom the tenant was evicted, (2) occupied
8 by another person, or (3) unoccupied. If the unit is occupied by the landlord or the relative for whom
9 the tenant was evicted, the landlord shall also simultaneously file with the Rent Board at least two
10 forms of documentation in which the unit is listed as the landlord or relative's place of residence.
11 Acceptable forms of this documentation shall include at least two of the following categories: (1)
12 current utility services contract or utility billing records from within 45 days of the date of filing; (2)
13 current motor vehicle registration and insurance policy for the vehicle; (3) current homeowner's or
14 renter's insurance policy; (4) correspondence from within 45 days of the date of filing from any
15 government agency, including federal, state, and local taxing authorities; (5) current voter
16 registration; (6) current driver's license; (7) proof that the individual has obtained a homeowner's
17 exemption from property taxes for the unit; or (8) any other credible documentary evidence showing
18 that the landlord or relative actually occupies the rental unit as his or her principal place of residence.
19 Evidence that the landlord did not timely file a statement of occupancy and supporting documentation
20 with the Rent Board shall create a rebuttable presumption that the landlord did not recover possession
21 of the unit in good faith, unless and until evidence is introduced that would support a finding that the
22 landlord did recover possession of the unit in good faith.

23 ~~(viii)~~ If any provision or clause of this ~~amendment to~~ Section 37.9(a)(8) or the
24 application thereof to any person or circumstance is held to be unconstitutional or to be
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1 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other
2 chapter provisions, and clauses of this Chapter are held to be severable; or


3 * * * *

4
5 Section 2. Effective Date. This ordinance shall become effective 30 days after
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
8 of Supervisors overrides the Mayor's veto of the ordinance.

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

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

20 By:


21 MANU PRADHAN
22 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Owner Move-In Reporting Requirements]

Ordinance amending the Administrative Code to require a landlord seeking to recover possession of a rental unit based on an owner move-in (“OMI”) or relative move-in (“RMI”) to provide a declaration under penalty of perjury stating that the landlord intends to occupy the unit for use as the principal place of residence of the landlord or the landlord’s relative for a period of at least 36 continuous months; and to require a landlord following an OMI or RMI to provide annual documentation for 36 months showing whether the landlord or the landlord’s relative is occupying the unit as his or her principal place of residence.

Existing Law

The Residential Rent Stabilization and Arbitration Ordinance allows a landlord to recover possession of a rental unit if the landlord has a “good faith” intent to occupy the rental unit as his or her own principal residence for a period of at least 36 continuous months (an “Owner Move-In,” or “OMI”). Under certain conditions, a landlord can also recover possession of a rental unit based on a “good faith” intent to use the unit as the principal place of residence of the landlord’s family members for a period of at least 36 continuous months (a “Relative Move-In,” or “RMI”).

A landlord formally initiates the OMI or RMI process by serving the tenant in the rental unit a notice to vacate. The Rent Ordinance does not specify how soon after the notice to vacate the landlord or the relative must move in, and allows a landlord who has performed an OMI or RMI to not move in and instead rent out the unit to a new tenant (subject to certain conditions and limitations). Landlords are not currently required to report to the Rent Board regarding the use of a rental unit following an OMI or RMI.

Amendments to Current Law

The amendments would require the notice to vacate for an OMI or RMI to include a declaration executed by the landlord stating that the landlord intends to recover possession of the unit in good faith for use as the principal residence of the landlord or the landlord’s relative for a period of at least 36 continuous months, and would require the landlord to execute the declaration under penalty of perjury and file the declaration with the Rent Board. Evidence that the landlord did not file the declaration with the Rent Board, or evidence that the landlord or the landlord’s relative did not move into the unit within three months after the notice was served on the tenant or did not occupy the unit as their principal residence for at least 36 continuous months after moving in, would create a rebuttable presumption that the landlord had not performed the OMI or RMI in good faith.

The amendments would also require a landlord to file an annual "statement of occupancy" with the Rent Board up until 36 months after the OMI or RMI was performed. The statement of occupancy would require the landlord to certify under penalty of perjury whether the unit was occupied as the principal residence of the landlord or relative, and would require the landlord to submit supporting documentation. A landlord's failure to file a statement of occupancy and supporting documentation would create a rebuttable presumption that the landlord had not performed the OMI or RMI in good faith.

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