

LEGISLATIVE DIGEST

[Administrative, Subdivision Codes - Tenant Buy-Out Agreements]

Ordinance amending the Administrative Code to require landlords to provide tenants with a disclosure of the tenant’s rights at least 45 days before the landlord commences buy-out negotiations; to require landlords to file a summary of the disclosure, as well as buy-out agreements, with the Rent Board; to require the Rent Board to post the summary disclosures and the buy-out agreements on its website; to authorize administrative enforcement proceedings, resulting in a fine for violations; to authorize tenants to bring civil actions for actual damages and a fine against landlords who fail to provide the required disclosure of tenants’ rights; to require the Rent Board to provide an annual report to the Board of Supervisors regarding tenant buy-outs; and amending the Subdivision Code to prohibit buildings from entering the condominium conversion lottery if the owners of the building have entered certain tenant buy-out agreements.

Existing Law

Administrative Code Chapter 37, known as the “Residential Rent Stabilization and Arbitration Ordinance” or the “Rent Ordinance,” applies to most residential rental units with an original certificate of occupancy issued before June 1979. The Rent Ordinance regulates the manner of and basis for evictions from these units, but does not regulate “buy-out agreements” between landlords and tenants under which landlords pay tenants to vacate their rental units. Landlords may ask tenants to enter such agreements without providing any advance notice, and landlords are not required to notify the Rent Board when they negotiate or enter into the agreements.

The Subdivision Code regulates the conversion of apartments and tenancy-in-common buildings to condominium subdivisions. In 2013, the Board of Supervisors adopted legislation suspending the existing condominium conversion lottery until at least 2024, and temporarily replacing it with an expedited conversion process. When the lottery resumes, buildings that meet specified qualifications will be eligible to participate. Buildings with certain evictions will not be permitted to participate in the lottery, but buildings whose tenants have vacated their units under buy-out agreements will be permitted to participate.

Amendments to Current Law

Notice prior to buy-out negotiations: The proposed ordinance would require landlords to provide tenants with written notice of the tenants’ rights at least 45 days before commencing buy-out negotiations for a rental unit. Among other information, the notice would inform the tenant that the tenant has a right not to enter a buy-out agreement with the landlord and would provide the Rent Board’s contact information. The ordinance would require landlords to file a disclosure with the Rent Board within seven days after providing the notice to tenants, and

would require the Rent Board to post on its website the addresses of the rental units listed in the disclosure.

Disclosure of buy-out agreements: The proposed ordinance would also require landlords to file copies of written buy-out agreements with the Rent Board. If the landlord and the tenant enter into an oral buy-out agreement, the ordinance would require the landlord to file a form with the Rent Board summarizing the agreement's material terms. The ordinance would require the Rent Board to post information about all buy-out agreements on its website.

Enforcement: The proposed ordinance would authorize nonprofit tenants' rights organizations to initiate hearings before administrative law judges at the Rent Board against landlords who violate these notice and disclosure rules. The Rent Board could require landlords who violate these rules to pay monetary penalties. The ordinance would also authorize tenants to file civil actions in San Francisco Superior Court seeking monetary damages from landlords for failing to provide the tenants required notice prior to initiating buy-out negotiations.

Annual reports: The proposed ordinance would require the Rent Board to provide an annual report to the Board of Supervisors regarding the implementation of the notice and disclosure rules.

Condominium Conversion Lottery: The proposed ordinance would prohibit condominium conversions in buildings where a senior, disabled, or catastrophically ill tenant has vacated a unit under a buy-out agreement after October 2014. The proposed ordinance would also prohibit condominium conversions in buildings where two or more tenants who are not senior, disabled, or catastrophically ill have vacated units under buy-out agreements, if the agreements were entered after October 2014 and within the ten years prior to the condominium conversion application.

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