

LEGISLATIVE DIGEST

[Administrative, Planning Codes - Preferences in Affordable Housing Programs]

Ordinance amending the Administrative Code to clarify existing preferences in allocating City affordable housing units first to Certificate of Preference holders and second to tenants evicted under the Ellis Act, create a third preference for residents in the neighborhood where the affordable housing is located, create additional categories of eligible displaced tenants, and make conforming amendments to provisions of the Administrative and Planning Codes; to affirm the Planning Department’s determination under the California Environmental Quality Act; and to make findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Currently, two tenant selection preferences apply to all affordable housing programs that the Mayor’s Office of Housing and Community Development (“MOHCD”) administers or funds (“City Affordable Housing Programs”). Current law provides preference to holders of Certificates of Preference (COPs) issued under a former Redevelopment Agency program to tenants displaced from certain redevelopment areas. The COP preference applies to 100% of all available affordable housing, both at initial sale or lease and upon re-sale or re-lease.

Second, current law provides preference in all City Affordable Housing Programs to certain “Displaced Tenants,” defined as tenants evicted under the State Ellis Act, California Government Code 7060 and following, who have lived in their unit continuously for at least ten years, or five years if they have a life-threatening illness or are disabled. The preference applies to 20% of all new affordable housing units during initial sale or lease up, and 100% of all existing affordable housing units upon re-sale or re-lease. A person can use the preference on an existing unit for up to three years after displacement, and on a new unit for up to six years after displacement.

A holder of any preference applying for a unit must still meet all eligibility requirements applicable for that unit under the applicable affordable housing program.

Amendments to Current Law

The proposed ordinance: (1) expands eligibility for the “Displaced Tenant” preference; and (2) adds a new, third “Neighborhood Preference” for current residents. The proposed ordinance makes no changes to the COP preference.

First, the proposed ordinance would add five new eligibility categories for the Displaced Tenants preference:

1. Tenants evicted under any of the “no-fault” evictions as defined in Sections 37.9(a)(8) through 37.9(a)(16) of the San Francisco Rent Ordinance.

2. Tenants ordered by a public safety official to vacate their units due to fire or other disaster who can sufficiently demonstrate that they cannot return to the unit within a reasonable period of time;
3. Tenants who have lost their unit through a residential demolition or residential merger approved through a City permit;
4. Tenants residing in units that are subject to rent restrictions imposed by the development's financing, where the rent restrictions are set to expire within the year or have already expired; and
5. Tenants in Below Market Rate rental units that are converting to ownership and being offered for sale where the tenant cannot afford to purchase the unit.

For all categories of "Displaced Tenant", a person must have been displaced on or after January 1, 2010 and will no longer be required to show continuous occupancy for any length of time. A person will be able to use the preference for up to six years from the date of displacement, regardless of whether the affordable unit at issue is existing or new.

Second, the proposed ordinance adds a third "Neighborhood Preference." "Neighborhood" is defined as any one of San Francisco's 11 supervisorial districts. "Neighborhood Resident" means a person who has a primary residence in a certain Neighborhood at the time they apply for an affordable housing unit. The preference applies only to 25% of the units in newly constructed affordable housing during initial sale or lease, and only after the COP and Displaced Tenant preferences.

In all cases, a holder of any preference applying for a unit must still meet all eligibility requirements applicable for that unit under the applicable affordable housing program. The proposed ordinance also makes conforming changes to other parts of the Planning and Administrative Codes.

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